

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION**

**48 CFR Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 36, 37, 38, 39, 41, 42, 43, 44, 46, 47, 48, 50, 51, 52, and 53**

[FAR Case 2011–018; Docket 2011–0018; Sequence 1]

RIN 9000–AM30

**Federal Acquisition Regulation;  
Positive Law Codification of Title 41**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to conform references throughout the FAR to the new Positive Law Codification of Title 41, United States Code, “Public Contracts.”

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before November 19,

2012 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to FAR Case 2011–018 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for “FAR Case 2011–018”. Select the link “Submit a Comment” that corresponds with “FAR Case 2011–018.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “FAR Case 2011–018” on your attached document.

- *Fax:* 202–501–4067.

- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

*Instructions:* Please submit comments only and cite FAR Case 2011–018, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward N. Chambers, Procurement Analyst, at 202–501–3221, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR Case 2011–018.

**SUPPLEMENTARY INFORMATION:****I. Background**

On January 4, 2011, Public Law 111–350 enacted a new codified version of Title 41 United States Code (U.S.C.), entitled “Public Contracts.” The purpose of this proposed rule is to update all references to Title 41 in the FAR to conform to the positive law codification.

Furthermore, this rule proposes further updates to complete the implementation of the recodification of title 40 in the FAR (see final rule under FAR Case 2005–010, Title 40 of United States Code Reference Corrections, published in the **Federal Register** at 70 FR 57453 on September 30, 2005).

**II. Discussion and Analysis**

There are three types of changes throughout the FAR, including some standard forms:

A. Change to the citation (e.g., “41 U.S.C. 10a-10d” now reads “41 U.S.C. chapter 83”).

B. Change to the popular names of the Acts (e.g., the “Service Contract Act of 1965” is now the “Service Contract Labor Standards statute”). A table providing the popular names of the Acts, the present statutory citation, and the new titles of the statutes is proposed at FAR 1.110. This table covers Acts under both titles 40 and 41.

C. Changes to terminology which did not involve substantive changes to the meaning of the statutes. The changes are summarized in the following table:

	Statutory cite in 41 U.S.C.	Change from	To	FAR cites
1.	104 .....	Definition of COTS item: “section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)”.	“46 U.S.C. 40102(4)” .....	2.101, 22.1801, 52.209–6, 52.222–54, 52.225–1, 52.225–3, 52.225–9, 52.225–11.
2.	2105(c)(1) .....	“has engaged in conduct constituting a violation of”/“constitutes a violation of”.	“has violated”/“violates.” .....	3.703, 52.203–8.
3.	1705 and 4106(g)(2) .....	“competition advocate” .....	“advocate for competition” .....	6.000, 6.304(a), subpart 6.5 (multiple), 7.104(c), 8.405–3(e)(3), 8.405–6(d), 9.202(b), 13.501(a)(2)(ii), 16.505(b)(2)(ii)(C).
4.	3901 .....	“in its discretion,” .....	Delete phrase .....	52.203–5.
5.	6308 .....	“let” .....	“award” .....	3.303(c)(5), 19.800(a), 52.219–8.
6.	6701 .....	“Outer Continental Shelf lands”	“outer Continental Shelf” .....	22.305, 22.1001, 52.213–4(b).
7.	7103 .....	“duly” .....	Delete word .....	33.201, 33.207(e), 52.233–1.
8.	8501 and 29 CFR 525 .....	“handicapped” .....	“disabled” or “workers with disabilities”.	5.202(a)(4), 9.102(b)(3), 15.404–4(d)(1)(iii), 22.102–1(h), 22.1019, 52.222–20, –38, 41.
9.	Chapter 85 (see 48 U.S.C. note prec. 1681).	Trust Territory of the Pacific .....	Delete .....	52.212–3, Alt I, 52.219–1, Alt I.
10.	8701 and 8702 .....	“directly or indirectly” .....	Delete .....	3.502–1(a), 52.203–7(a).
11.	8703 .....	“Department of Justice” .....	“Attorney General” .....	3.502–2(g), 52.203–7(c)(2).

Additionally, this case makes numerous minor corrections to the FAR apart from the changes directly due to the recodification:

- References to title 10 of the United States Code are corrected at FAR 6.302–5(c)(1), 7.102(a)(2), 7.103(a), 7.202(a), 15.303(b)(4) and (6), 15.404–1(f)(2), 32.006–1(a), and 32.006–5.
- Codification citations are added for Authorization Acts, for Appropriations Acts and other public laws at FAR 8.602(a), 9.402(d), 12.000, 12.102(g)(1), 12.504(a)(13), 16.505(a)(9), 19.201(d), 23.704(b)(1)(ii), 25.405, 25.700(b), 26.400, 28.106–4(b), 28.106–6(d), 31.205–1(f)(8), 32.112–1(a), 32.112–2(a), 52.212–5(a)(3) and (c)(7), (e)(1)(xiii), and in (e)(1)(ii)(M) of Alternate II; 52.213–4(a)(1)(vii), (b)(1)(x), 52.226–6(b), and 52.228–12.
- FAR 12.201 deletes the reference to Public Law 103–355, which is already covered at 12.000.
- The title of the clause at FAR 52.244–6 is corrected at FAR 12.502(b) and 44.402(b).
- FAR 1.501 is corrected to conform to 41 U.S.C. 1707 and FAR 1.301.
- FAR 22.1502—the relationship of three statutes is conformed to language used in Executive Order 13126.
- Obsolete references are deleted at FAR 43.102(c) and 50.103–3(c).
- The Executive order citation is added for FAR 52.222–54, Employment Eligibility Verification, at 52.212–5(e)(1)(xii) and Alternate II at (e)(1)(ii)(L).

### III. Executive Order 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### IV. Regulatory Flexibility Act

The Department of Defense (DoD), the General Services Administration (GSA), and the National Aeronautics and Space Administration (NASA) do not expect this proposed rule to have a significant economic impact on a substantial

number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not change or add any policies or procedures. The rule merely updates references and terminology. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2011–018) in all correspondence.

### V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, these changes to the FAR do not imposed additional information collection requirements to the paperwork burden previously approved under the Office of Management and Budget Control Number 1215–0017, titled: Records to be Kept by Employers-FLSA; 1215–0119, titled: Requirements of a Bono Fide Thrift or Savings Plan; 1215–0140, titled: Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government; 1215–0149, titled: Optional Use Payroll Form under the Davis-Bacon Act; 1215–0150, titled: Nondisplacement of Qualified Workers Under Service Contracts; 9000–0014, titled: Statement and Acknowledgement; 9000–0024, titled: Buy American Act Certificate; 9000–0025, titled: Trade Agreement Certificate; 9000–0035, titled: Claims and Appeals; 9000–0045, titled: Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections; 9000–0070, titled: Payments; 9000–0089, titled: Request for Authorization of Additional Classification and Rate, Standard Form 1444; 9000–0090, titled: Rights in Data and Copyrights; 9000–0091, titled: Anti-Kickback Procedures; 9000–0094, titled: Debarment and Suspension; 9000–0102, titled: Prompt Payment; 9000–0113, titled: Acquisition of Helium; 9000–0130, titled: Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate; 9000–135, titled: Prospective Subcontractor Requests for Bonds; 9000–0136, titled: Commercial Item Acquisitions; 9000–0138, titled: Contract Financing; 9000–0141, titled: Buy American Act—Construction;

9000–0154, titled: Davis Bacon Act—Price Adjustments (Actual Method).

**List of Subjects in 48 CFR Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 36, 37, 38, 39, 41, 42, 43, 44, 46, 47, 48, 50, 51, 52, and 53.**

Government procurement.

Dated: August 30, 2012.

**Laura Auletta,**

*Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 36, 37, 38, 39, 41, 42, 43, 44, 46, 47, 48, 50, 51, 52, and 53 as set forth below:

1. The authority citation for 48 CFR parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 36, 37, 38, 39, 41, 42, 43, 44, 46, 47, 48, 50, 51, 52, and 53 is revised to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

### PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Amend section 1.103 by revising paragraph (a) to read as follows:

#### 1.103 Authority.

(a) The development of the FAR System is in accordance with the requirements of (41 U.S.C. chapter 13, Acquisition Councils).

\* \* \* \* \*

#### 1.106 [Amended]

3. Amend section 1.106 by removing from the introductory paragraph “(Pub. L. 96–511)” and adding “(44 U.S.C. chapter 35)” in its place.

4. Amend section 1.107 by revising the introductory paragraph to read as follows:

#### 1.107 Certifications.

In accordance with 41 U.S.C. 1304, a new requirement for a certification by a contractor or offeror may not be included in this chapter unless—

\* \* \* \* \*

5. Amend section 1.109 by removing from paragraph (a) “41 U.S.C. 431a” and adding “41 U.S.C. 1908” in its place; and revising paragraph (c) to read as follows:

#### 1.109 Statutory acquisition-related dollar thresholds—adjustment for inflation.

\* \* \* \* \*

(c) The statute does not permit escalation of acquisition-related dollar

thresholds established by 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction 41 U.S.C. chapter 67, Service Contract Labor Standards; or the United States Trade Representative pursuant to the authority of the Trade Agreements Act of 1979 (19 U.S.C. 2511 *et seq.*).

\* \* \* \* \*

6. Add section 1.110 to read as follows:

**1.110 Positive Law codification.**

(a) Public Law 107–217 revised, codified, and enacted as title 40, United States Code, Public Buildings, Property, and Works, certain general and permanent laws of the United States.

(b) Public Law 111–350 revised, codified, and enacted as title 41, United States Code, Public Contracts, certain general and permanent laws of the United States.

(c) The following table provides cross references between the historical titles of the acts, and the current reference in title 40 or title 41.

Historical title of Act	Division/chapter/subchapter	Title
Anti-Kickback Act .....	41 U.S.C. chapter 87 .....	Kickbacks.
Brooks Architect-Engineer Act .....	40 U.S.C. chapter 11 .....	Selection of Architects and Engineers.
Buy American Act .....	41 U.S.C. chapter 83 .....	Buy American.
Contract Disputes Act of 1978 .....	41 U.S.C. chapter 71 .....	Contract Disputes.
Contract Work Hours and Safety Standards Act .....	40 U.S.C. chapter 37 .....	Contract Work Hours and Safety Standards.
Davis-Bacon Act .....	40 U.S.C. chapter 31, Subchapter IV .....	Wage Rate Requirements (Construction).
Drug-Free Workplace Act .....	41 U.S.C. chapter 81 .....	Drug-Free Workplace.
Federal Property and Administrative Services Act of 1949, Title III.	41 U.S.C. Div. C of subtitle I* .....	Procurement.
Javits-Wagner-O'Day Act .....	41 U.S.C. chapter 85 .....	Committee for Purchase from People Who Are Blind or Severely Disabled.
Miller Act .....	40 U.S.C. chapter 31, subchapter III .....	Bonds.
Office of Federal Procurement Policy Act .....	41 U.S.C. Div. B of subtitle I** .....	Office of Federal Procurement Policy.
Procurement Integrity Act .....	41 U.S.C. chapter 21 .....	Restrictions on Obtaining and Disclosing Certain Information.
Service Contract Act of 1965 .....	41 U.S.C. chapter 67 .....	Service Contract Labor Standards.
Truth in Negotiations Act .....	41 U.S.C. chapter 35 .....	Truthful Cost or Pricing Data.
Walsh-Healey Public Contracts Act .....	41 U.S.C. chapter 65 .....	Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000.

\* Except sections 3302, 3501(b), 3509, 3906, 4710, and 4711.

\*\* Except sections 1704 and 2303.

7. Amend section 1.301 by revising the first sentence of paragraph (b) to read as follows:

**1.301 Policy.**

\* \* \* \* \*

(b) Agency heads shall establish procedures to ensure that agency acquisition regulations are published for comment in the **Federal Register** in conformance with the procedures in subpart 1.5 and as required by 41 U.S.C. 1707, and other applicable statutes, when they have a significant effect beyond the internal operating procedures of the agency or have a significant cost or administrative impact on contractors or offerors. \* \* \*

\* \* \* \* \*

**1.501–1 [Amended]**

8. Amend section 1.501–1 by removing from the first sentence “having a significant” and adding “and which have a significant” in its place.

**1.602–3 [Amended]**

9. Amend section 1.602–3 by removing from paragraph (b)(5) “under the Contract Disputes Act of 1978” and adding “under 41 U.S.C. chapter 71, Contract Disputes,” in its place.

**1.603–1 [Amended]**

10. Amend section 1.603–1 by removing “Subsection 414(4) of Title 41,

United States Code,” and adding “41 U.S.C. 1702(b)(3)(F)” in its place.

**PART 2—DEFINITIONS OF WORDS AND TERMS**

11. Amend section 2.101 in paragraph (b) by—

a. Removing from the definition “Certified cost or pricing data” the citation “41 U.S.C. 254b)” and adding “41 U.S.C. chapter 35)” in its place;

b. Removing from the definition “Chief Acquisition Officer” the words “to the Services Acquisition Reform Act of 2003, Section 1421 of Public Law 108–136” and adding “41 U.S.C. 1702” in its place;

c. Removing from the definition “Claim” the words “the Contract Disputes Act of 1978” and “by the Act” and adding “41 U.S.C. chapter 71, Contract Disputes,” and “by the statute” in its place, respectively;

d. Removing from the definition “Commercially available off-the-shelf (COTS) item”, in paragraph (2), “section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)” and adding “46 U.S.C. 40102(4),” in its place;

e. Removing from the first sentence of the definition “Cost or pricing data” the words “41 U.S.C. 254b)” and adding “41 U.S.C. chapter 35) in its place;

f. Removing from the definition “Humanitarian or peacekeeping

operation” the citation “41 U.S.C. 259(d)” and adding “41 U.S.C. 153(2)” in its place;

g. Revising the definition “Ineligible”;

h. Removing from the definition “Major system”, in paragraph (3), “41 U.S.C. 403” and adding “41 U.S.C. 109” in its place;

i. Revising the definition “Micro-purchase threshold”;

j. Revising the definition “Senior procurement executive”;

k. Removing from the definition “Simplified acquisition threshold” in the introductory paragraph, “(41 U.S.C. 428a)” and adding “(41 U.S.C. 1903)” in its place;

l. Removing from the definition “Technical data” the words “(See 41 U.S.C. 403(8))” and adding “(See 41 U.S.C. 116)” in its place; and

m. Revising the definition “Value engineering” to read as follows:

**2.101 Definitions.**

\* \* \* \* \*

(b) \* \* \*  
(2) \* \* \*

*Ineligible* means excluded from Government contracting (and subcontracting, if appropriate) pursuant to statutory, Executive order, or regulatory authority other than this regulation (48 CFR Chapter 1) and its implementing and supplementing regulations; for example, pursuant to—

(1) 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), and its related statutes and implementing regulations;

(2) 41 U.S.C. chapter 67, Service Contract Labor Standards;

(3) The Equal Employment Opportunity Acts and Executive orders;

(4) 41 U.S.C. chapter 65, Contracts for Material, Supplies, Articles, and Equipment Exceeding \$15,000;

(5) 41 U.S.C. chapter 83, Buy American; or

(6) The Environmental Protection Acts and Executive orders.

\* \* \* \* \*

*Micro-purchase threshold* means \$3,000, except it means—

(1) For acquisitions of construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), \$2,000;

(2) For acquisitions of services subject to 41 U.S.C. chapter 67, Service Contract Labor Standards, \$2,500; and

(3) For acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical or radiological attack as described in 13.201(g)(1), except for construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction) [41 U.S.C. 1903]—

(i) \$15,000 in the case of any contract to be awarded and performed, or purchase to be made, inside the United States; and

(ii) \$30,000 in the case of any contract to be awarded and performed, or purchase to be made, outside the United States.

\* \* \* \* \*

*Senior procurement executive* means the individual appointed pursuant to 41 U.S.C. 1702(c) who is responsible for management direction of the acquisition system of the executive agency, including implementation of the unique acquisition policies, regulations, and standards of the executive agency.

\* \* \* \* \*

*Value engineering* means an analysis of the functions of a program, project, system, product, item of equipment, building, facility, service, or supply of an executive agency, performed by qualified agency or contractor personnel, directed at improving performance, reliability, quality, safety, and life-cycle costs 41 U.S.C. 1711). For use in the clause at 52.248–2, see the definition at 52.248–2(b).

\* \* \* \* \*

## PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

12. Amend section 3.104–1 in the definition “Contractor bid or proposal information” by revising paragraph (1); and removing from the definition “Federal agency procurement” the words “of the Act” and adding “of 41 U.S.C. chapter 21” in its place.

The revised text reads as follows:

### 3.104–1 Definitions.

\* \* \* \* \*

*Contractor bid or proposal information* \* \* \*

(1) Cost or pricing data (as defined by 10 U.S.C. 2306a(h)) with respect to procurements subject to that section, and 41 U.S.C. 3501(a)(2), with respect to procurements subject to that section.

\* \* \* \* \*

13. Amend section 3.104–2 by revising paragraph (a) to read as follows:

### 3.104–2 General.

(a) This section implements 41 U.S.C. chapter 21, Restrictions on Obtaining and Disclosing Certain Information. Agency supplementation of 3.104, including specific definitions to identify individuals who occupy positions specified in 3.104–3(d)(1)(ii), and any clauses required by 3.104 must be approved by the senior procurement executive of the agency, unless a law establishes a higher level of approval for that agency.

\* \* \* \* \*

### 3.104–3 [Amended]

14. Amend section 3.104–3 by—

a. Removing from the introductory text of paragraph (a) “(subsection 27(a) of the Act)” and adding “(41 U.S.C. 2102)” in its place;

b. Removing from paragraph (b) “(subsection 27(b) of the Act)” and adding “(41 U.S.C. 2102)” in its place;

c. Removing from the introductory text of paragraph (c) “(subsection 27(c) of the Act)” and adding “(41 U.S.C. 2103)” in its place;

d. Removing from paragraph (c)(4) “(subsection 27(c) of the Act)” and adding “(41 U.S.C. 2103)” in its place; and

e. Removing from the introductory text of paragraph (d) “(subsection 27(d) of the Act)” and adding “(41 U.S.C. 2103)” in its place.

### 3.104–4 [Amended]

15. Amend section 3.104–4 by removing from paragraph (f)(1) “section 27 of the Act” and adding “41 U.S.C. chapter 21” in its place.

### 3.104–6 [Amended]

16. Amend section 3.104–6 by removing from paragraphs (a), (c), and (d)(3) “subsection 27(d) of the Act” and adding “41 U.S.C. 2104” in its place.

### 3.104–7 [Amended]

17. Amend section 3.104–7 by—

a. Removing from the introductory text of paragraph (a) “subsection 27(a), (b), (c), or (d) of the Act” and adding “41 U.S.C. 2102, 2103 or 2104” in its place;

b. Removing from paragraph (b)(5) “subsection 27(e) of the Act” and adding “41 U.S.C. 2105” in its place;

c. Removing from paragraph (c) “the Act” and adding “41 U.S.C. chapter 21” in its place; and

d. Removing from the introductory text of paragraph (d) “section 27 of the Act” and adding “41 U.S.C. chapter 21” in its place;

e. Removing from paragraph (d)(2)(ii)(A) “subsections 27(a) or (b) of the Act” and adding “41 U.S.C. 2102” in its place; and

f. Removing from paragraph (d)(2)(ii)(B) “subsection 27(c)(1) of the Act” and adding “41 U.S.C. 2105(a)” in its place.

### 3.104–8 [Amended]

18. Amend section 3.104–8 by removing from the introductory paragraph “the Act” and adding 41 U.S.C. chapter 21” in its place; and removing from paragraphs (a) and (b) “subsection 27(e) of the Act” and adding “41 U.S.C. 2105” in its place.

### 3.303 [Amended]

19. Amend section 3.303 by removing from paragraph (a) “41 U.S.C. 253b(i)” and adding “41 U.S.C. 3707” in its place; and removing from paragraph (c)(5) “let by” and adding “awarded by” in its place.

### 3.400 [Amended]

20. Amend section 3.400 by removing “41 U.S.C. 254(a)” and adding “41 U.S.C. 3901” in its place.

### 3.402 [Amended]

21. Amend section 3.402 by removing from the introductory paragraph “41 U.S.C. 254(a)” and adding “41 U.S.C. 3901” in its place.

### 3.502–1 [Amended]

22. Amend section 3.502–1 by removing from the definition “Kickback” “, directly or indirectly,”.

23. Amend section 3.502–2 by—

a. Revising the introductory text, and paragraphs (d)(3) and (g);

b. Removing from the introductory text of paragraph (h), and paragraphs (i)(1), and (i)(2) “the Act” and adding “Kickbacks statute” in its place; and

c. Revising (j) to read as follows:

### 3.502-2 Subcontractor Kickbacks.

The Anti-Kickback Act of 1986 (now codified at 41 U.S.C. chapter 87, Kickbacks,) was passed to deter subcontractors from making payments and contractors from accepting payments for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contractor a subcontract relating to a prime contract. The Kickbacks statute—

\* \* \* \* \*

(d) Provides that—

(3) An offset under subparagraph (d)(1) or a direction under subparagraph (d)(2) of this subsection is a claim by the Government for the purposes of 41 U.S.C. chapter 71, Contract Disputes.

\* \* \* \* \*

(g) Requires a prime contractor or subcontractor to report in writing to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Attorney General any possible violation of the Kickbacks statute when the prime contractor or subcontractor has reasonable grounds to believe such violation may have occurred.

\* \* \* \* \*

(j) Notwithstanding paragraph (i) of this subsection, a prime contractor shall cooperate fully with any Federal Government agency investigating a violation of 41 U.S.C. 8702 (See also 41 U.S.C. 8703(b)).

### 3.503-1 [Amended]

24. Amend section 3.503-1 by removing “41 U.S.C. 253g” and adding “41 U.S.C. 4704” in its place.

25. Amend section 3.703 by revising the introductory text of paragraph (b) and (b)(1) to read as follows:

### 3.703 Authority.

\* \* \* \* \*

(b) 41 U.S.C. 2105(c) requires a Federal agency, upon receiving information that a contractor or a person has violated 41 U.S.C. 2102, to consider rescission of a contract with respect to which—

(1) The contractor or someone acting for the contractor has been convicted for an offense punishable under 41 U.S.C. 2105(a); or

\* \* \* \* \*

### 3.704 [Amended]

26. Amend section 3.704 by removing from the introductory text of paragraph (c) “subsection 27(e) of the OFPP Act” and adding “41 U.S.C. 2105” in its place.

27. Amend section 3.705 by revising paragraph (e) to read as follows:

### 3.705 Procedures.

\* \* \* \* \*

(e) *Final agency decision.* The final agency decision shall be based on the information available to the agency head or designee, including any pertinent information submitted or, if a hearing was held, presented at the hearing. If the agency decision declares void and rescinds the contract, the final decision shall specify the amounts due and property to be returned to the agency, and reflect consideration of the fair value of any tangible benefits received and retained by the agency. Notice of the decision shall be sent promptly by certified mail, return receipt requested. Rescission of contracts under the authority of the Act and demand for recovery of the amounts expended and property transferred therefore, is not a claim within the meaning of 41 U.S.C. chapter 71, Contract Disputes, or part 33. Therefore, the procedures required by the statute and the FAR for the issuance of a final contracting officer decision are not applicable to final agency decisions under this subpart, and shall not be followed.

28. Amend section 3.900 by revising paragraph (a) to read as follows:

### 3.900 Scope of subpart.

(a) Sections 3.901 through 3.906 of this subpart implements 10 U.S.C. 2409 and 41 U.S.C. 4705.

\* \* \* \* \*

## PART 4—ADMINISTRATIVE MATTERS

29. Revise section 4.500 to read as follows:

### 4.500 Scope of subpart.

This subpart provides policy and procedures for the establishment and use of electronic commerce in Federal acquisition as required by 41 U.S.C. 2301.

### 4.502 [Amended]

30. Amend section 4.502 by removing from the introductory text of paragraph (b) “Section 30 of the OFPP Act (41 U.S.C. 426)” and adding “41 U.S.C. 2301” in its place.

31. Amend section 4.602 by revising paragraph (a)(2) to read as follows:

### 4.602 General.

(a) \* \* \*

\* \* \* \* \*

(2) A means of measuring and assessing the effect of Federal contracting on the Nation’s economy and the extent to which small, veteran-owned small, service-disabled veteran-

owned small, HUBZone small, small disadvantaged, women-owned small business concerns, and AbilityOne nonprofit agencies operating under 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled, are sharing in Federal contracts;

\* \* \* \* \*

### 4.805 [Amended]

32. Amend section 4.805 by removing from paragraph (b)(1) “Act” and adding “statute” in its place.

### 4.1202 [Amended]

33. Amend section 4.1202 by—

(a) Removing from paragraphs (p) and (q) “Act” and adding “Labor Standards” in its place;

(b) Removing from paragraph (u) “Buy American Act” and adding “Buy American Certificate.” in their places; and

(c) Removing from paragraph (v) “Buy American Act” and adding “Buy American-Free” in its place.

## PART 5—PUBLICIZING CONTRACT ACTIONS

34. Amend section 5.101 by revising the introductory text of paragraph (a) to read as follows:

### 5.101 Methods of disseminating information.

(a) As required by the Small Business Act (15 U.S.C. 637(e)) and 41 U.S.C. 1708, contracting officers must disseminate information on proposed contract actions as follows:

\* \* \* \* \*

35. Amend section 5.201 by revising paragraph (a) to read as follows:

### 5.201 General.

(a) As required by the Small Business Act (15 U.S.C. 637(e)) and 41 U.S.C. 1708, agencies must make notices of proposed contract actions available as specified in paragraph (b) of this section.

\* \* \* \* \*

36. Amend section 5.202 by revising paragraph (a)(4) to read as follows:

### 5.202 Exceptions.

\* \* \* \* \*

(a) \* \* \*

(4) The proposed contract action is expressly authorized or required by a statute to be made through another Government agency, including acquisitions from the Small Business Administration (SBA) using the authority of section 8(a) of the Small Business Act (but see 5.205(f)), or from a specific source such as a workshop for the blind under the rules of the

Committee for the Purchase from People Who Are Blind or Severely Disabled;

\* \* \* \* \*

37. Amend section 5.207 by removing from paragraph (c)(14)(i) “Act”; and revising paragraph (c)(14)(iii) to read as follows:

**5.207 Preparation and transmittal of synopses.**

\* \* \* \* \*

(c) \* \* \*

(14) \* \* \*

(iii) If the solicitation will include the FAR clause at 52.225–11, Buy American-Construction Materials under Trade Agreements, 52.225–23, Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials under Trade Agreements, or an equivalent agency clause, insert the following notice in the synopsis: “One or more of the items under this acquisition is subject to the World Trade Organization Government Procurement Agreement and Free Trade Agreements.”

\* \* \* \* \*

**PART 6—COMPETITION REQUIREMENTS**

**6.000 [Amended]**

38. Amend Section 6.000 by removing “and competition advocates” and adding “and advocates for competition” in its place.

**6.101 [Amended]**

39. Amend section 6.101 by removing from paragraphs (a) and (b) “41 U.S.C. 253” and adding “41 U.S.C. 3301” in their places.

**6.102 [Amended]**

40. Amend section 6.102 by removing from paragraph (d)(3) “41 U.S.C. 259(b)(3)(A)” and adding “41 U.S.C. 152(3)(A)” in its place.

**6.301 [Amended]**

41. Amend section 6.301 by removing from paragraph (a) “41 U.S.C. 253(c)” and adding “41 U.S.C. 3304” in its place (twice).

**6.302–1 [Amended]**

42. Amend section 6.302–1 by—  
(a) Removing from paragraph (a)(1) “41 U.S.C. 253(c)(1)” and adding “41 U.S.C. 3304(a)(1)”;

(b) Removing from paragraph (a)(2)(i)(C) “41 U.S.C. 253(d)(1)(A)” and adding “41 U.S.C. 3304(b)(1)”;

(c) Removing from paragraph (a)(2)(ii)(B) “41 U.S.C. 253(d)(1)(B)” and adding “41 U.S.C. 3304(b)(2)” in its place.

**6.302–2 [Amended]**

43. Amend section 6.302–2 by removing from paragraph (a)(1) “41 U.S.C. 253(c)(2)” and adding “41 U.S.C. 3304(a)(2)” in its place.

**6.302–3 [Amended]**

44. Amend section 6.302–3 by removing from paragraph (a)(1) “41 U.S.C. 253(c)(3)” and adding “41 U.S.C. 3304(a)(3)” in its place.

**6.302–4 [Amended]**

45. Amend section 6.302–4 by removing from paragraph (a)(1) “41 U.S.C. 253(c)(4)” and adding “41 U.S.C. 3304(a)(4)” in its place.

46. Amend section 6.302–5 by revising paragraphs (a)(1), (b)(2), (c)(1)(ii), and (c)(1)(iii) to read as follows:

**6.302–5 Authorized or required by statute.**

(a) *Authority.* (1) Citations: 10 U.S.C. 2304(c)(5) or 41 U.S.C. 3304(a)(5).

\* \* \* \* \*

(b) \* \* \*

(2) Qualified nonprofit agencies for the blind or other severely disabled—41 U.S.C. chapter 85, Committee for Purchase From People Who Are Blind or Severely Disabled (see subpart 8.7).

\* \* \* \* \*

(c) *Limitations.*

(i) \* \* \*

(ii) Refers to 10 U.S.C. 2304(k) for armed services acquisitions or 41 U.S.C. 3105 for civilian agency acquisitions; and

(iii) States that award to that entity shall be made in contravention of the merit-based selection procedures in 10 U.S.C. 2304(k) or 41 U.S.C. 3105, as appropriate. However, this limitation does not apply—

\* \* \* \* \*

**6.302–6 [Amended]**

47. Amend section 6.302–6 by removing from paragraph (a)(1) “41 U.S.C. 253(c)(6)” and adding “41 U.S.C. 3304(a)(6)” in its place.

**6.302–7 [Amended]**

48. Amend section 6.302–7 by removing from paragraph (a)(1) “41 U.S.C. 253(c)(7)” and adding “41 U.S.C. 3304(a)(7)” in its place.

**6.304 [Amended]**

49. Amend section 6.304 by removing from paragraph (a)(2) “by the competition advocate” and adding “by the advocate for competition”; and by removing from paragraph (a)(4) “the OFPP Act (41 U.S.C. 414(3))” and adding “41 U.S.C. 1702(c)” in its place.

**6.305 [Amended]**

50. Amend section 6.305 by removing from paragraph (a) “41 U.S.C. 253(j).” and adding “41 U.S.C. 3304(f).” in its place.

51. Amend subpart 6.5 by revising the heading as set forth below:

**SUBPART 6.5—ADVOCATES FOR COMPETITION**

52. Amend section 6.501 by revising the introductory paragraph to read as follows:

**6.501 Requirement.**

As required by 41 U.S.C. 1705, the head of each executive agency shall designate an advocate for competition for the agency and for each procuring activity of the agency. The advocates for competition shall—

\* \* \* \* \*

**6.502 [Amended]**

53. Amend section 6.502 by removing from paragraphs (a) and (b) “competition advocates” and adding “advocates for competition” in their places.

**PART 7—ACQUISITION PLANNING**

**7.102 [Amended]**

54. Amend section 7.102 by removing from paragraph (a)(1) “41 U.S.C. 251, *et seq.*” and adding “41 U.S.C. 3307” in its place; and removing from paragraph (a)(2) “10 U.S.C. 2301(a)(5) and 41 U.S.C. 253a(a)(1)” and adding “10 U.S.C. 2305(a)(1)(A) and 41 U.S.C. 3306(a)(1)” in its place.

**7.103 [Amended]**

55. Amend section 7.103 by—

a. Removing from paragraph (a) “41 U.S.C. 253a(a)(1))” and adding “10 U.S.C. 2305(a)(1)(A) and 41 U.S.C. 3306(a)(1)” in its place;

b. Removing from paragraph (b) “41 U.S.C. 251, *et seq.*” and adding “41 U.S.C. 3307” in its place; and

c. Removing from paragraph (c) “41 U.S.C. 253a(a)(1)” and adding “41 U.S.C. 3306(a)(1)” in its place.

**7.104 [Amended]**

56. Amend section 7.104 by removing from paragraph (c) “competition advocate” and adding “advocate for competition” in its place.

**7.108 [Amended]**

57. Amend section 7.108 by removing from the introductory paragraph “section 1428 of Public Law 108–136” and adding “41 U.S.C. 3306(f)” in its place.

**7.202 [Amended]**

58. Amend section 7.202 by removing from paragraph (a) “10 U.S.C. 2384(a) and 41 U.S.C. 253f” and adding “10 U.S.C. 2384a and 41 U.S.C. 3310” in its place.

**PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES****8.401 [Amended]**

59. Amend section 8.401 in the definition “Multiple Award Schedule (MAS)” by removing “Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, *et seq.*) and Title” and adding “41 U.S.C. 152(3), Competitive Procedures, and” in its place.

**8.403 [Amended]**

60. Amend section 8.403 by removing from the introductory text of paragraph (c) “Public Law 108–136” and adding “Public Law 108–136 (40 U.S.C. 1103 note)” in its place.

**8.405–3 [Amended]**

61. Amend section 8.405–3 by removing from paragraph (e)(3) “competition advocate” and adding “advocate for competition” in its place.

**8.405–6 [Amended]**

62. Amend section 8.405–6 by removing from paragraph (d)(2) “competition advocate” and adding “advocate for competition” in its place.

**8.602 [Amended]**

63. Amend section 8.602 by removing from the introductory text of paragraph (a) “(Pub. L. 108–447)” and adding “(Pub. L. 108–447) (18 U.S.C. 4124 note)” in its place.

64. Amend section 8.603 by revising the introductory text of paragraph (a); and removing from paragraph (a)(1) “(41 U.S.C. 48)” and adding “(41 U.S.C. 8504)” in its place.

The revised text reads as follows:

**8.603 Purchase priorities.**

FPI and nonprofit agencies participating in the AbilityOne Program under 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled (see Subpart 8.7), may produce identical supplies or services. When this occurs, ordering offices shall purchase supplies and services in the following priorities:

\* \* \* \* \*

65. Revise section 8.700 to read as follows:

**8.700 Scope of subpart.**

This subpart prescribes the policies and procedures for implementing—

(a) 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled; and

(b) The rules of the Committee Purchase from People Who Are Blind or Severely Disabled (41 CFR Chapter 51), which implements the AbilityOne program.

**8.701 [Amended]**

66. Amend section 8.701 by—  
a. Removing from the definition “Procurment List” “the Javits-Wagner-O’Day Act” and adding “41 U.S.C. chapter 85” in its place; and  
b. Removing from the definition “Nonprofit agency serving people who are blind,” the words “the Act” and adding “41 U.S.C. chapter 85” in its place.

**8.702 [Amended]**

67. Amend section 8.702 by removing from paragraph (c) “the Javits-Wagner-O’Day Act” and adding “41 U.S.C. chapter 85” in its place.

**8.704 [Amended]**

68. Amend section 8.704 by removing from the introductory text of paragraph (a) “The Javits-Wagner-O’Day Act” and adding “41 U.S.C. chapter 85” in its place; and removing from paragraph (a)(1)(i) “(41 U.S.C. 48)” and adding “(41 U.S.C. 8504)” in its place.

**8.1104 [Amended]**

69. Amend section 8.1104 by removing from paragraph (e)(3) “Walsh-Healey Public Contracts Act” and adding “Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000” in its place.

**PART 9—CONTRACTOR QUALIFICATIONS****9.102 [Amended]**

70. Amend section 9.102 by removing from paragraph (b)(3) “the blind or other severely handicapped” and adding “people who are blind or severely disabled” in its place.

71. Amend section 9.107 by revising the section heading; and removing from paragraph (a) “41 U.S.C. 46–48c” and adding “41 U.S.C. chapter 85” in its place. The revised text reads as follows:

**9.107 Surveys of nonprofit agencies participating in the AbilityOne Program.**

\* \* \* \* \*

**9.200 [Amended]**

72. Amend section 9.200 by removing “41 U.S.C. 253(e)” and adding “41 U.S.C. 3311” in its place.

**9.202 [Amended]**

73. Amend section 9.202 by removing from paragraph (b) “competition

advocate” and adding “advocate for competition” in its place (twice).

**9.402 [Amended]**

74. Amend section 9.402 by removing from paragraph (d) “(Pub. L. 110–417)” and adding “(Pub. L. 110–417) (31 U.S.C. 6101 note)” in its place.

75. Amend section 9.406–2 by revising the introductory text of paragraph (b)(1)(ii) to read as follows:

**9.406–2 Causes for debarment.**

\* \* \* \* \*

(b) \* \* \*

(ii) Violations of 41 U.S.C. chapter 81, Drug-Free Workplace, as indicated by—

\* \* \* \* \*

**9.406–4 [Amended]**

76. Amend section 9.406–4 by removing from paragraph (a)(1)(i) “the Drug-Free Workplace Act of 1988” and adding “41 U.S.C. chapter 81, Drug Free Workplace” in its place.

77. Amend section 9.407–2 by revising the introductory text of paragraph (a)(4) to read as follows:

**9.407–2 Causes for suspension.**

(a) \* \* \*

(4) Violations of 41 U.S.C. chapter 81, Drug-Free Workplace, as indicated by—

\* \* \* \* \*

**PART 10—MARKET RESEARCH****10.000 [Amended]**

78. Amend section 10.000 by removing “41 U.S.C. 253a(a)(1), 41 U.S.C. 264b” and adding “41 U.S.C. 3306(a)(1), 41 U.S.C. 3307” in its place.

**PART 11—DESCRIBING AGENCY NEEDS****11.002 [Amended]**

79. Amend section 11.002 by removing from the introductory text of paragraph (a) “41 U.S.C. 253a(a), and 41 U.S.C. 264b” and adding “41 U.S.C. 3306(a), and 41 U.S.C. 3307” in its place.

**11.103 [Amended]**

80. Amend section 11.103 by removing from the introductory text of paragraph (a) “Section 8002(c) of Pub. L. 103–355” and adding “41 U.S.C. 3307(e)” in its place.

**11.500 [Amended]**

81. Amend section 11.500 by removing “Act” and adding “statute” in its place.

## PART 12—ACQUISITION OF COMMERCIAL ITEMS

### 12.000 [Amended]

82. Amend section 12.000 by removing “Title VIII of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355)” and adding “41 U.S.C. 1906, 1907, and 3307 and 10 U.S.C. 2375–2377” in its place.

### 12.102 [Amended]

83. Amend section 12.102 by removing from the introductory text of paragraph (g)(1) “section 1431 of the National Defense Authorization Act for Fiscal Year 2004 (Public law 108–136) (41 U.S.C. 437)” and adding “41 U.S.C. 2310” in its place.

84. Revise section 12.103 to read as follows:

### 12.103 Commercially available off-the-shelf (COTS) items.

Commercially available off-the-shelf (COTS) items are defined in 2.101. Unless indicated otherwise, all of the policies that apply to commercial items also apply to COTS items. Section 12.505 lists the laws that are not applicable to COTS items (in addition to 12.503 and 12.504); the components test of the Buy American statute, and the two recovered materials certifications in Subpart 23.4, do not apply to COTS items.

85. Revise section 12.201 to read as follows:

### 12.201 General.

This subpart identifies special requirements for the acquisition of commercial items intended to more closely resemble those customarily used in the commercial marketplace, as well as other considerations necessary for proper planning, solicitation, evaluation, and award of contracts for commercial items.

### 12.301 [Amended]

86. Amend section 12.301 by removing from the introductory text of paragraph (a) “Section 8002 of Public Law 103–355 (41 U.S.C. 264, note)” and adding “41 U.S.C. 3307” in its place.

### 12.404 [Amended]

87. Amend section 12.404 by removing from the introductory text of paragraph (b) “The Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 264 note)” and adding “41 U.S.C. 3307(e)(5)(B)” in its place.

### 12.500 [Amended]

88. Amend section 12.500 by removing from the introductory text of paragraph (a) “sections 34 and 35 of the Office of Federal Procurement Policy

Act (41 U.S.C. 430 and 431)” and adding “41 U.S.C. 1906 and 1907” in its place.

### 12.502 [Amended]

89. Amend section 12.502 by removing from paragraph (b) “and Commercial Components”.

90. Amend section 12.503 by—

a. Revising paragraphs (a)(1) through

(a)(4), (a)(7), (a)(8), (b)(1), and (b)(2);

b. Removing from paragraph (c)(1) “41 U.S.C. 253g” and adding “41 U.S.C. 4704” in its place;

c. Revising paragraph (c)(2); and

d. Removing from paragraph (c)(3) “41 U.S.C. 422” and adding “41 U.S.C. chapter 15” in its place.

The revised text reads as follows:

### 12.503 Applicability of certain laws to executive agency contracts for the acquisition of commercial items.

(a) \* \* \*

(1) 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (see subpart 22.6).

(2) 41 U.S.C. 3901(b) and 10 U.S.C. 2306(b), Contingent Fees (see 3.404).

(3) 41 U.S.C. 1708(e)(3), Minimum Response Time for Offers (see 5.203).

(4) 41 U.S.C. chapter 81, Drug-Free Workplace (see 23.501).

(7) Section 806(a)(3) of Pub. L. 102–190, as amended by Sections 2091 and 8105 of Pub. L. 103–355 (10 U.S.C. 2302 note), Payment Protections for Subcontractors and Suppliers (see 28.106–6).

(8) 41 U.S.C. 4706(d)(1) and 10 U.S.C. 2313(c)(1), GAO Access to Contractor Employees, Section 871 of Pub. L. 110–417 (see 52.214–26 and 52.215–2).

\* \* \* \* \*

(b) \* \* \*

(1) 40 U.S.C. chapter 37, Requirement for a certificate and clause under the Contract Work Hours and Safety Standards statute (see 22.305).

(2) 41 U.S.C. 8703 and 8704, Requirement for a clause and certain other requirements related to kickbacks (see 3.502).

\* \* \* \* \*

(c) \* \* \*

(2) 41 U.S.C. chapter 35, Truthful Cost or Pricing Data, and 10 U.S.C. 2306a, Truth in Negotiations (see 15.403).

\* \* \* \* \*

91. Amend section 12.504 by—

a. Revising paragraph (a)(4) through (a)(6);

b. Removing from paragraph (a)(7) “41 U.S.C. 254d(c)” and adding “41 U.S.C. 1708(e)(3)” in its place;

c. Revising paragraphs (a)(8) through (a)(10);

d. Removing from paragraph (a)(13) “Pub. L. 103–355” and adding “Pub. L. 103–355 (10 U.S.C. 2302 note)” in its place;

e. Removing from paragraph (b) “Act, 40 U.S.C. 3701, *et seq.*” and adding “statute, 40 U.S.C. chapter 37” in its place; and

f. Revising paragraphs (c)(1) through (c)(3).

The revised text reads as follows:

### 12.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

(a) \* \* \*

(4) 41 U.S.C. 6505, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (see Subpart 22.6).

(5) 41 U.S.C. 4703, Validation of Property Data restrictions (see subpart 27.4).

(6) 41 U.S.C. 3901(b) and 10 U.S.C. 2306(b), Contingent Fees (see subpart 3.4).

\* \* \* \* \*

(8) 41 U.S.C. 1708(e)(3), Minimum Response Time for Offers (see subpart 5.2).

(9) 41 U.S.C. 2302, Rights in Technical Data (see subpart 27.4)

(10) 41 U.S.C. chapter 81, Drug-Free Workplace (see subpart 23.5).

\* \* \* \* \*

(c) \* \* \*

(1) 41 U.S.C. 4704 and 10 U.S.C. 2402, Prohibition on Limiting Subcontractor Direct Sales to the United States (see subpart 3.5).

(2) 41 U.S.C. chapter 35, Truthful Cost or Pricing Data, and 10 U.S.C. 2306a, Truth in Negotiations (see subpart 15.4)

(3) 41 U.S.C. chapter 15, Cost Accounting Standards (48 CFR chapter 99) (see 12.214).

92. Amend section 12.505 by revising paragraphs (a)(1) and (a)(2) to read as follows:

### 12.505 Applicability of certain laws to contract for the acquisition of COTS items.

\* \* \* \* \*

(a)(1) The portion of 41 U.S.C. 8302(a)(1) that reads “substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States,” Buy American—Supplies, component test (see 52.225–1 and 52.225–3).

(2) The portion of 41 U.S.C. 8303(a)(2) that reads “substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States,” Buy American—Construction Materials, component test (see 52.225–9 and 52.225–11).

\* \* \* \* \*



## PART 13—SIMPLIFIED ACQUISITION PROCEDURES

### 13.005 [Amended]

93. Amend section 13.005 by—

- a. Revising the section heading;
- b. Removing from the introductory text of paragraph (a) “threshold” and adding “threshold pursuant to 41 U.S.C. 1905” in its place;
- c. Removing from paragraph (a)(1) “41 U.S.C. 57(a) and (b) (Anti Kickback Act of 1986)” and adding “41 U.S.C. 8703 (Kickbacks statute)” in its place;
- d. Removing from paragraph (a)(2) “40 U.S.C. 3131 (Miller Act). (Although the Miller Act does)” and adding “40 U.S.C. 3131 (Bonds Statute). (Although the Bonds Statute does)” in its place;
- e. Revising paragraphs (a)(3), (a)(4), and (a)(6) through (a)(8); and
- f. Removing from paragraph (c)(2) “Public Law 103–355” and adding “Public Law 103–355 41 U.S.C. 1905” in its place.

The revised text reads as follows:

### 13.005 List of laws inapplicable to contracts and subcontracts at or below the simplified acquisition threshold.

(a) \* \* \*

(3) 40 U.S.C. chapter 37 (Contract Work Hours and Safety Standards—Overtime Compensation).

(4) 41 U.S.C. 8102(a)(1) (Drug-Free Workplace), except for individuals.

\* \* \* \* \*

(6) 10 U.S.C. 2306(b) and 41 U.S.C. 3901(b) (Contract Clause Regarding Contingent Fees).

(7) 10 U.S.C. 2313 and 41 U.S.C. 4706 (Authority to Examine Books and Records of Contractors).

(8) 10 U.S.C. 2402 and 41 U.S.C. 4704 (Prohibition on Limiting Subcontractors Direct Sales to the United States).

\* \* \* \* \*

### 13.006 [Amended]

94. Amend section 13.006 by removing from paragraph (e) the word “Act”.

### 13.302–5 [Amended]

95. Amend section 13.302–5 by removing from the introductory text of paragraph (d)(3)(i) “Buy American Act” and adding “Buy American” in its place (two times).

### 13.500 [Amended]

96. Amend section 13.500 by removing from the introductory text of paragraph (a) “41 U.S.C. 253(g) and 253a and 253b” and adding “41 U.S.C. 2305, 3306, and chapter 37, Awarding of Contracts” in its place; and removing from paragraph (e) “41 U.S.C. 428a” and adding “41 U.S.C. 1903” in its place.

### 13.501 [Amended]

97. Amend section 13.501 by—

- a. Removing from paragraph (a)(1)(ii) “(section 4202 of the Clinger-Cohen Act of 1996 or the authority of the Services Acquisition Reform Act of 2003 41 U.S.C. 428a)” and adding “at 41 U.S.C. 1901 or the authority of 41 U.S.C. 1903” in its place; and
- b. Removing from paragraph (a)(2)(ii) “competition advocate” and adding “advocate for competition” in its place.

## PART 14—SEALED BIDDING

### 14.201–8 [Amended]

98. Amend section 14.201–8 by removing from paragraph (e) “American Act” and adding “American statute” in its place.

### 14.404–2 [Amended]

99. Amend section 14.202–2 by removing from paragraph (l) “41 U.S.C. 15” and adding “41 U.S.C. 6305” in its place.

## PART 15—CONTRACTING BY NEGOTIATION

### 15.207 [Amended]

100. Amend section 15.207 by removing from paragraph (b) “41 U.S.C. 423” and adding “41 U.S.C. chapter 21, Restrictions on Obtaining and Disclosing Certain Information” in its place.

### 15.209 [Amended]

101. Amend section 15.209 by removing from the introductory text of paragraph (b)(1) “41 U.S.C. 254d” and adding “41 U.S.C. 4706” in its place.

### 15.303 [Amended]

102. Amend section 15.303 by—

- a. Removing from paragraph (b)(4) “10 U.S.C. 2305(b)(1) and 41 U.S.C. 253b(d)(3)” and adding “10 U.S.C. 2305(b)(4)(C) and 41 U.S.C. 3703(c)” in its place; and
- b. Removing from paragraph (b)(6) “10 U.S.C. 2305(b)(4)(B) and 41 U.S.C. 253b(d)(3)” and adding “10 U.S.C. 2305(b)(4)(C) and 41 U.S.C. 3703(c)” in its place.

### 15.304 [Amended]

103. Amend section 15.304 by—

- a. Removing from paragraph (c)(1) “41 U.S.C. 253a(c)(1)(B)” and adding 41 U.S.C. 3306(c)(1)(B)” in its place; and removing from the end of sentence “;” and adding a period in its place;
- b. Removing from paragraph (c)(2) “41 U.S.C. 253a(c)(1)(A); and” and adding “3306(c)(1)(A).” in its place;
- c. Removing from paragraph (d) “41 U.S.C. 253a(b)(1)(A)” and adding “41 U.S.C. 3306(b)(1)(A)” in its place; and

d. Removing from paragraph (e)(3) “41 U.S.C. 253a(c)(1)(C)” and adding “41 U.S.C. 3306(c)(1)(C)” in its place.

### 15.306 [Amended]

104. Amend section 15.306 by—

- a. Removing from paragraph (a)(3) “41 U.S.C. 253b(d)(1)(B)” and adding “41 U.S.C. 3703(a)(2)” in its place;
- b. Removing from paragraph (c)(2) “41 U.S.C. 253b(d)” and adding “41 U.S.C. 3703” in its place; and
- c. Removing from paragraphs (e)(3) and (e)(5) “41 U.S.C. 423(h)(1)(2)” and adding “41 U.S.C. 2102 and 2107” in its place (two times).

### 15.401 [Amended]

105. Amend section 15.401 by removing from the definition “Subcontract” the citation “41 U.S.C. 254b” and adding “41 U.S.C. chapter 35” in its place.

106. Amend section 15.403–1 by—

- a. Revising the section heading;
- b. Removing from paragraph (c)(3)(ii) “section 868 of Pub. L. 110–417” and adding “41 U.S.C. 3501” in its place;
- c. Removing from paragraph (c)(3)(ii)(A) “41 U.S.C. 254b” and adding “41 U.S.C. chapter 35 in its place”; and

- d. Removing from paragraph (c)(3)(iv) “41 U.S.C. 428a” and adding “41 U.S.C. 1903” in its place.

The revised text reads as follows:

### 15.403–1 Prohibition on obtaining certifies cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).

\* \* \* \* \*

### 15.403–3 [Amended]

107. Amend section 15.403–3 by—

- a. Removing from paragraph (a)(1)(ii) “41 U.S.C. 254b(d)(1)” and adding “41 U.S.C. 3505(a)” in its place; and
- b. Removing from paragraph (c)(2) 41 U.S.C. 254b(d)(2)” and adding “41 U.S.C. 3505(b)” in its place.

108. Amend section 15.403–4 by revising the section heading to read as follows:

### 15.403–4 Requiring certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).

\* \* \* \* \*

### 15.404–1 [Amended]

109. Amend section 15.404–1 by removing from paragraph (f)(2) “10 U.S.C. 2304 and 41 U.S.C. 254(d)(5)(A)(i)” and adding “10 U.S.C. 2306a(b)(1)(A)(i) and 41 U.S.C. 3503(a)(1)(A)” in its place.

### 15.404–2 [Amended]

110. Amend section 15.404–2 by removing from paragraph (c)(2) “41

U.S.C. 254d” and adding “41 U.S.C. 4706” in its place.

#### **15.404–4 [Amended]**

111. Amend section 15.404–4 by removing from paragraph (c)(4)(i) “41 U.S.C. 254(b)” and adding “41 U.S.C. 3905” in its place; and removing from paragraph (d)(1)(iii) “handicapped sheltered workshops” and adding “sheltered workshops for workers with disabilities” in its place.

#### **15.407–1 [Amended]**

112. Amend section 15.407–1 by removing from paragraph (d)(1) “Disputes Act” and adding “Disputes statute” in its place.

#### **15.503 [Amended]**

113. Amend section 15.503 by removing from the introductory text of paragraph (b)(1) “41 U.S.C. 253b(c)” and adding “41 U.S.C. 2704” in its place.

#### **15.505 [Amended]**

114. Amend section 15.505 by removing from the introductory text “41 U.S.C. 253b(f)–(h)” and adding “41 U.S.C. 3705” in its place.

### **PART 16—TYPES OF CONTRACTS**

#### **16.102 [Amended]**

115. Amend section 16.102 by—  
a. Removing from paragraph (b) “41 U.S.C. 254(a)” and adding “41 U.S.C. 3901” in its place; and  
b. Removing from paragraph (c) “41 U.S.C. 254(b)” and adding “41 U.S.C. 3905(a)” in its place.

#### **16.501–2 [Amended]**

116. Amend section 16.501–2 by removing from paragraph (a) “Pursuant to 10 U.S.C. 2304d and section 303K of the Federal Property and Administrative Service Act of 1949” and adding “Pursuant to 10 U.S.C. and 41 U.S.C. 4101” in its place.

#### **16.505 [Amended]**

117. Amend section 16.505 by—  
a. Removing from paragraph (a)(9) “Public Law 108–136” and adding “Public Law 108–136, 40 U.S.C. 1103 note” in its place; and  
b. Removing from paragraphs (b)(2)(ii)(c)(2) and (b)(6) “competition advocate” and adding “advocate for competition” in its place.

### **PART 17—SPECIAL CONTRACTING METHODS**

118. Revise section 17.101 to read as follows:

#### **17.101 Authority.**

This subpart implements 41 U.S.C. 3903 and 10 U.S.C. 2306b and provides

policy and procedures for the use of multi-year contracting.

119. Amend section 17.109 by revising paragraph (b)(1) to read as follows:

#### **17.109 Contract clauses.**

\* \* \* \* \*

(b) \* \* \*

(1) Shall add the clause at 52.222–43, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts), when the contract includes the clause at 52.222–41, Service Contract Labor Standards;

\* \* \* \* \*

#### **17.204 [Amended]**

120. Amend section 17.204 by removing from paragraph (e) “Contract Act” and adding “Contract Labor Standards Statute” in its place.

121. Amend section 17.501 by revising paragraph (d) to read as follows:

#### **17.501 General.**

\* \* \* \* \*

(d) An agency shall not use an interagency acquisition to make acquisitions conflicting with any other agency’s authority or responsibility (for example, that of the Administrator of General Services under title 40, United States Code, “Public Buildings, Property and Works” and 41 U.S.C. division C of subtitle I, Procurement.

#### **17.602 [Amended]**

122. Amend section 17.602 by removing from paragraph (a) “the Competition in Contracting Act of 1984” and adding “41 U.S.C. chapter 33” in its place.

### **PART 19—SMALL BUSINESS PROGRAMS**

123. Amend section 19.000 by revising the introductory text of paragraph (a); by redesignating paragraphs (a)(1) through (a)(12) as paragraphs (a)(2) through (a)(13), respectively; and adding a new paragraph (a)(1) to read as follows:

#### **19.000 Scope of part.**

(a) This part implements—

(1) The acquisition-related sections of the Small Business Act (15 U.S.C. 631, *et seq.*); applicable sections of 10 U.S.C. 2302, *et seq.*; 41 U.S.C. 3104; 10 U.S.C. 2323; and Executive Order 12138, May 18, 1979. It covers—

\* \* \* \* \*

124. Amend section 19.201 by revising paragraph (d) to read as follows:

#### **19.201 General policy.**

\* \* \* \* \*

(d) The Small Business Act requires each agency with contracting authority to establish an Office of Small and Disadvantaged Business Utilization (see section (k) of the Small Business Act). For the Department of Defense, in accordance with section 904 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163) (10 U.S.C. 144 note), the Office of Small and Disadvantaged Business Utilization has been redesignated as the Office of Small Business Programs. Management of the office shall be the responsibility of an officer or employee of the agency who shall, in carrying out the purposes of the Act—

\* \* \* \* \*

#### **19.800 [Amended]**

125. Amend section 19.800 by removing from paragraph (a) “agencies and let” and adding “agencies and award” in its place.

#### **19.811–1 [Amended]**

126. Amend section 19.811–1 by removing from paragraph (b)(1) “41 U.S.C. 253(c)(5)” and adding “41 U.S.C. 3304(a)(5)” in its place.

#### **19.1304 [Amended]**

127. Amend section 19.1304 by removing from paragraph (a)(2) “Javits-Wagner-O’Day Act participating” and adding “Ability one participating” in its place.

#### **19.1404 [Amended]**

128. Amend section 19.1404 by removing from paragraph (a)(2) “Javits-Wagner-O’Day Act participating” and adding “Ability one participating” in its place.

#### **19.1504 [Amended]**

129. Amend section 19.1504 by removing from paragraph (a)(2) “Javits-Wagner-O’Day Act participating” and adding “Ability one participating” in its place.

### **PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

130. Amend section 22.001 by—  
a. Removing from the definition “e98” the words “Contract Act” and adding “Contract Labor Standards statute” in its place; and  
b. Revising the definition “Wage Determination Online (WDOL)” to read as follows:

#### **22.001 Definitions.**

\* \* \* \* \*

*Wage Determinations OnLine (WDOL)* means the Government Internet Web

site for both Construction Wage Rate Requirements statute and Service Contract Labor Standards statute wage determinations available at <http://www.wdol.gov>.

\* \* \* \* \*

#### **22.102-1 [Amended]**

131. Amend section 22.102-1 by removing from paragraph (h) “the handicapped” and adding “workers with disabilities” in its place.

132. Amend section 22.102-2 by revising paragraph (c) to read as follows:

#### **22.102-2 Administration.**

\* \* \* \* \*

(c)(1) The U.S. Department of Labor is responsible for the administration and enforcement of the Occupational Safety and Health Act. The Department of Labor’s Wage and Hour Division is responsible for administration and enforcement of numerous wage and hour statutes including—

(i) 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction);

(ii) 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards;

(iii) The Copeland Act (18 U.S.C. 874 and 40 U.S.C. 3145);

(iv) 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000;

(v) 41 U.S.C. chapter 67, Service Contract Labor Standards).

(2) Contracting officers should contact the Wage and Hour Division’s regional offices when required by the subparts relating to these statutes unless otherwise specified. Addresses for these offices may be found at 29 CFR 1, Appendix B.

133. Amend section 22.202 by revising paragraph (a) to read as follows:

#### **22.202 Contract clause.**

\* \* \* \* \*

(a) The contract will be subject to 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (see Subpart 22.6), which contains a separate prohibition against the employment of convict labor;

\* \* \* \* \*

134. Revise section 22.300 to read as follows:

#### **22.300 Scope of Subpart.**

This subpart prescribes policies and procedures for applying the requirements of 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards (the statute) to contracts that may require or involve laborers or mechanics. In this subpart, the term “laborers or mechanics” includes

apprentices, trainees, helpers, watchmen, guards, firefighters, fireguards, and workmen who perform services in connection with dredging or rock excavation in rivers or harbors, but does not include any employee employed as a seaman.

#### **22.301 [Amended]**

135. Amend section 22.301 by removing “Act requires” and adding “statute requires” in its place.

#### **22.302 [Amended]**

136. Amend section 22.302 by removing from paragraphs (a), (b), and (c) “the Act” and adding “the statute” in its place.

#### **22.303 [Amended]**

137. Amend section 22.303 by removing “the Act” and adding “the statute” in its place.

#### **22.304 [Amended]**

138. Amend section 22.304 by removing from paragraph (a) “the Act” and adding “the statute” in its place.

139. Amend section 22.305 by revising the introductory paragraph, paragraph (d) and paragraph (e) to read as follows:

#### **22.305 Contract clause.**

Insert the clause at 52.222-4, Contract Work Hours and Safety Standards—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, do not include the clause in solicitations and contracts—

\* \* \* \* \*

(d) To be performed outside the United States, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331) (29 CFR 5.15);

(e) For work to be done solely in accordance with 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000, (see Subpart 22.6);

\* \* \* \* \*

#### **22.401 [Amended]**

140. Amend section 22.401 by removing from the definition “Laborers or mechanics”, paragraph (1)(ii), “Standards Act” and adding “Standards statute” in its place; and removing from the definition “Wages” the words “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place.

#### **22.402 [Amended]**

141. Amend section 22.402 by removing from paragraph (b)(1)(ii) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place.

142. Revise section 22.403-1 to read as follows:

#### **22.403-1 Construction Wage Rate Requirements statute.**

40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), formerly known as the Davis-Bacon Act, provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works within the United States, shall contain a clause (see 52.222-6) that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor.

143. Revise section 22.403-3 to read as follows:

#### **22.403-3 Contract Work Hours and Safety Standards.**

40 U.S.C. chapter 37, Contract Work Hours and Safety Standards, requires that certain contracts (see 22.305) contain a clause (see 52.222-4) specifying that no laborer or mechanic doing any part of the work contemplated by the contract shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1 ½ times the basic rate of pay (see 22.301).

144. Amend section 22.403-4 by revising paragraph (b) to read as follows:

#### **22.403-4 Department of Labor regulations.**

\* \* \* \* \*

(b) The Department of Labor regulations include—

(1) Part 1, relating to Construction Wage Rate Requirements statute minimum wage rates;

(2) Part 3, relating to the Copeland (Anti-Kickback) Act and requirements for submission of weekly statements of compliance and the preservation and inspection of weekly payroll records;

(3) Part 5, relating to enforcement of the (i) Construction Wage Rate Requirements statute, (ii) Contract Work Hours and Safety Standards statute and (iii) Copeland (Anti-Kickback) Act;

(4) Part 6, relating to rules of practice for appealing the findings of the Administrator, Wage and Hour Division, in enforcement cases under the various labor statutes, and by which Administrative Law Judge hearings are held; and

(5) Part 7, relating to rules of practice by which contractors and other interested parties may appeal to the Department of Labor Administrative Review Board, decisions issued by the Administrator, Wage and Hour Division, or administrative law judges under the various labor statutes.

\* \* \* \* \*

#### 22.404 [Amended]

145. Amend section 22.404 by removing from the section heading “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place.

#### 22.404–1 [Amended]

146. Amend section 22.404–1 by removing from paragraph (a)(2) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place.

#### 22.404–11 [Amended]

147. Amend section 22.401–11 by removing “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place.

#### 22.404–12 [Amended]

148. Amend section 22.404–12 by removing from paragraph (c)(3) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place; and removing from paragraph (c)(4) “Service Contract Act” and adding “Service Contract Labor Standards statute” in its place.

#### 22.406–2 [Amended]

149. Amend section 22.406–2 by removing from the introductory text of paragraph (b)(1) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements” in its place.

#### 22.406–3 [Amended]

150. Amend section 22.406–3 by removing from paragraph (a) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements” in its place.

#### 22.406–8 [Amended]

Amend section 22.406–8 by—  
 a. Removing from paragraph (d)(2)(i)(B) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place;  
 b. Removing from paragraph (d)(2)(ii)(D) “Standards Act” and adding “Standards statute” in its place;  
 c. Removing from paragraph (e)(2) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place; and  
 d. Removing from paragraph (e)(3) “Standards Act” and adding “Standards statute” in its place.

151. Amend section 22.406–9 by—

a. Removing from paragraph (a) “Standards Act” and adding “Standards statute” in its place;

b. Removing from paragraph (a)(1) “Davis-Bacon Act” and “Standards Act” and adding “Construction Wage Rate Requirements statute” and “Standards statute” in its place, respectively;

c. Removing from paragraph (b) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place; and  
 d. Revising paragraph (c)(1) to read as follows:

22.406–9 Withholding from or suspension of contract payments.

\* \* \* \* \*

(c) *Disposition of contract payments withheld or suspended—*

(1) *Forwarding wage underpayments to the Comptroller General.* Upon final administrative determination, if contractor of subcontractor has not made restitution, the contracting officer must forward to the appropriate disbursing office Standard Form (SF) 1093, Schedule of Withholdings Under the Construction Wage Rate Requirements statute (40 U.S.C. chapter 31, subchapter IV) and/or Contract Work Hours and Safety Standards statute (40 U.S.C. chapter 37). Attach to the SF 1093 a list of the name, social security number, and last known address of each affected employee; the amount due each employee; employee claims if feasible; and a brief rationale for restitution. Also, the contracting officer must indicate if restitution was not made because the employee could not be located. The Government may assist underpaid employees in preparation of their claims. The disbursing office must submit the SF 1093 with attached additional data and the funds withheld (by check) to the Comptroller General (Claims Section).

\* \* \* \* \*

152. Amend section 22.406–10 by revising paragraph (f) to read follows:

#### 22.406–10 Disposition of disputes concerning construction contract labor standards enforcement.

\* \* \* \* \*

(f) The Administrator, Wage and Hour Division, may institute debarment proceedings against the contractor or subcontractor if the Administrator finds reasonable cause to believe that the contractor or subcontractor has committed willful or aggravated violations of the Contract Work Hours and Safety Standards statute or the Copeland (Anti-Kickback) Act, or any of the applicable statutes listed in 29 CFR 5.1 other than the Construction Wage Rate Requirements statute, or has committed violations of the

Construction Wage Rate Requirements statute that constitute a disregard of its obligations to employees or subcontractors under Section 3(a) of that statute.

153. Amend section 22.406–12 by revising paragraph (b) to read as follows:

#### 22.406–12 Cooperation with the Department of Labor.

\* \* \* \* \*

(b) If a Department of Labor representative undertakes an investigation at a construction project, the contracting officer shall inquire into the scope of the investigation, and request to be notified immediately of any violations discovered under the Construction Wage Rate Requirements statute, the Contract Work Hours and Safety Standards statute, or the Copeland (Anti-Kickback) Act.

154. Revise section 22.406–13 to read as follows:

#### 22.406–13 Semiannual enforcement reports.

A semiannual report on compliance with and enforcement of the construction labor standards requirements of the Construction Wage Rate Requirements statute and Contract Work Hours and Safety Standards statute is required from each contracting agency. The reporting periods are October 1 through March 31 and April 1 through September 30. The reports shall only contain information as to the enforcement actions of the contracting agency and shall be prepared as prescribed in Department of Labor memoranda and submitted to the Department of Labor within 30 days after the end of the reporting period. This report has been assigned interagency report control number 1482–DOL–SA.

155. Amend section 22.407 by—

a. Removing from paragraphs (a)(1) and (a)(8) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements” in its place;

b. Removing from paragraph (e) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements” in its place;

c. Removing from paragraph (e)(1) and (e)(2) Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place;

d. Revising paragraphs (f) and (g); and

e. Removing from paragraph (h) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements” in its place.

The revised text reads as follows:

#### 22.407 Solicitation provision and contract clauses.

\* \* \* \* \*

(f) Insert the clause at 52.222–31, Construction Wage Rate Requirements—Price Adjustment (Percentage Method), in solicitations and contracts if the contract is expected to be a fixed-price contract subject to the Construction Wage Rate Requirements statute that will contain option provisions by which the contracting officer may extend the term of the contract, and the contracting officer determines the most appropriate contract price adjustment method is the method at 22.404–12(c)(3).

(g) Insert the clause at 52.222–32, Construction Wage Rate Requirements—Price Adjustment (Actual Method), in solicitations and contracts if the contract is expected to be a fixed-price contract subject to the Construction Wage Rate Requirements statute that will contain option provisions by which the contracting officer may extend the term of the contract, and the contracting officer determines the most appropriate method to establish contract price is the method at 22.404–12(c)(4).

\* \* \* \* \*

156. Revise the heading of Subpart 22.6 to read as follows:

**Subpart 22.6—Contracts For Materials, Supplies, Articles, and Equipment Exceeding \$15,000**

157. Revise section 22.602 to read as follows:

**22.602 Statutory requirements.**

Except for the exemptions at 22.604, all contracts subject to 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (the statute), and entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation (all the stock of which is beneficially owned by the United States) for the manufacture or furnishing of materials, supplies, articles, and equipment (referred to in this subpart as supplies) in any amount exceeding \$15,000, shall include or incorporate by reference the stipulations required by the statute pertaining to such matters as minimum wages, maximum hours, child labor, convict labor, and safe and sanitary working conditions.

**22.604–1 [Amended]**

158. Amend section 22.604–1 by removing from the introductory text “the Act” and adding “the statute” in its place.

**22.604–2 [Amended]**

159. Amend section 22.604–2 by removing from paragraphs (a) and (a)(3)

“the Act” and adding “the statute” in their places.

**22.605 [Amended]**

160. Amend section 22.605 by removing from paragraphs (a), (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5) “the Act” and adding “the statute” in their places.

**22.608 [Amended]**

161. Amend section 22.608 by removing from paragraphs (a) and (b) “the Act” and adding “the statute” in their places.

162 Revise section 22.610 to read as follows:

**22.610 Contract clause.**

The contracting officer shall insert the clause at 52.222–20, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000, in solicitations and contracts covered by the statute (see 22.603, 22.604, and 22.605).

163. Revise the heading of Subpart 22.10 to read as follows:

**Subpart 22.10—Service Contract Labor Standards**

164. Revise section 22.1000 to read as follows:

**22.1000 Scope of subpart.**

This subpart prescribes policies and procedures implementing the provisions of 41 U.S.C. chapter 67, Service Contract Labor Standards, the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201, et seq.), and related Secretary of Labor regulations and instructions (29 CFR Parts 4, 6, 8, and 1925).

165. Amend section 22.1001 by—  
a. Removing the definition “Act”;  
b. Removing from the definition “Contractor” the words “the Act” and adding “the statute” in its place; and  
c. Revising the definitions “Service contract”, “United States”, “Wage and Hour Division” and “Wage determination” to read as follows:

**22.1001 Definitions.**

\* \* \* \* \*

*Service contract* means any Government contract, the principal purpose of which is to furnish services in the United States through the use of service employees, except as exempted under 41 U.S.C. 6702, see 22.1003–3 and 22.1003–4, or any subcontract at any tier thereunder. See 22.1003–5 and 29 CFR 4.130 for a partial list of services covered by the Service Contract Labor Standards statute.

\* \* \* \* \*

*United States* means the 50 States, the District of Columbia, Puerto Rico, the

Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.), but does not include any other place subject to U.S. jurisdiction or any U.S. base or possession within a foreign country (29 CFR 4.112).

*Wage and Hour Division* means the unit in the Employment Standards Administration of the Department of Labor to which is assigned functions of the Secretary of Labor under the Service Contract Labor Standards statute.

*Wage determination* means a determination of minimum wages or fringe benefits made under 41 U.S.C. 6703 or 6707(c) applicable to the employment in a given locality of one or more classes of service employees.

**22.1002–1 [Amended]**

166. Amend section 22.1002–1 by removing “41 U.S.C. 353(d)” and adding “41 U.S.C. 6707(d)” in its place.

167. Revise section 22.1003–2 to read as follows:

**22.1003–2 Geographical coverage of the Service Contract Labor Standards statute.**

The Service Contract Labor Standards statute applies to service contracts performed in the United States (see 22.1001). The Service Contract Labor Standards statute does not apply to contracts performed outside the United States.

168. Amend section 22.1003–3 by revising the introductory text and paragraph (b) to read as follows:

**22.1003–3 Statutory exemptions.**

The Service Contract Labor Standards statute does not apply to—

\* \* \* \* \*

(b) Any work required to be done in accordance with the provisions of 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000;

\* \* \* \* \*

169. Amend section 22.1003–4 by—  
a. Revising paragraph (a);

b. Removing from the introductory text of paragraph (b) “the Act” and adding “the Service Contract Labor Standards statute” in its place;

c. Removing from the introductory text of paragraph (c)(1) “the Act” and adding “the Service Contract Labor Standards statute” in its place;

d. Removing from paragraph (c)(3)(i) “Contract Act” and adding “Contract Labor Standards statute” in its place;

e. Removing from paragraphs (c)(3)(ii) and (c)(3)(iii) “Contract Act” and adding “Contract Labor Standards” in its place;

f. Removing from paragraph (c)(4)(i) “Contract Act” and adding “Contract Labor Standards statute” in its place;

g. Removing from paragraphs (c)(4)(ii), and (d)(1) “the Act” and adding “the Service Contract Labor Standards statute” in their places;

h. Removing from paragraph (d)(1)(iv) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place;

i. Removing from paragraphs (d)(3)(i), (d)(3)(ii) introductory text, and (d)(3)(iii) “Contract Act” and adding “Contract Labor Standards” in their places;

j. Removing from paragraphs (d)(4)(i) and (d)(4)(ii) “Contract Act” and “the Act” and adding “Contract Labor Standards statute” and “Service Contract Labor Standards statute” in their places; respectively; and

k. Revising paragraphs (d)(5)(i) and (d)(5)(iii).

The revised text reads as follows:

**22.1003–4 Administrative limitations, variations, tolerances, and exemptions.**

(a) The Secretary of Labor may provide reasonable limitations and may make rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of the Service Contract Labor Standards statute other than 41 U.S.C. 6707(f). These will be made only in special circumstances where it has been determined that the limitation, variation, tolerance, or exemption is necessary and proper in the public interest or to avoid the serious impairment of Government business, and is in accord with the remedial purpose of the Service Contract Labor Standards statute to protect prevailing labor standards (41 U.S.C. 6707(b)). See 29 CFR 4.123 for a listing of administrative exemptions, tolerances, and variations. Requests for limitations, variances, tolerances, and exemptions from the Service Contract Labor Standards statute shall be submitted in writing through contracting channels and the agency labor advisor to the Wage and Hour Administrator.

\* \* \* \* \*

(d) \* \* \*

(5) \* \* \*

(i) Awarded under 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled (see Subpart 8.7).

\* \* \* \* \*

(iii) Subject to 41 U.S.C. 6707(c) (see 22.1002–3).

**22.1003–5 [Amended]**

170. Amend section 22.1003–5 by removing from introductory text “the

Act” and adding “the Service Contract Labor Standards statute” in its place.

171. Amend section 22.1003–6 by revising paragraph (a); and by removing from paragraph (b) “Contract Act” and adding “Contract Labor Standards statute” in its place.

The revised text reads as follows:

**22.1003–6 Repair distinguished from remanufacturing of equipment.**

(a) Contracts principally for remanufacturing of equipment which is so extensive as to be equivalent to manufacturing are subject to 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000, rather than to the Service Contract Labor Standards statute. Remanufacturing shall be deemed to be manufacturing when the criteria in either subparagraphs (a)(1) or (a)(2) of this subsection are met.

\* \* \* \* \*

**22.1003–7 [Amended]**

172. Amend section 22.1003–7 by removing “the Act” and adding “the Service Contract Labor Standards statute” in its place.

**22.1004 [Amended]**

173. Amend section 22.1004 by removing from the introductory paragraph and paragraph (c) “the Act” and adding “the Service Contract Labor Standards statute” in its place (three times).

**22.1006 [Amended]**

174. Amend section 22.1006 by—  
a. Removing from the introductory text of paragraph (a)(1) the words “Act of 1965” and “the Act” and adding “Labor Standards” and “the Service Contract Labor Standards statute” in its place, respectively;

b. Removing from paragraph (a)(2) “Contract Act” and adding “Contract Labor Standards statute” in its place;

c. Removing from paragraphs (a)(2)(i)(A) and (a)(2)(i)(B) the words “Contract Act” and adding “Contract Labor Standards” in their places;

d. Revising paragraph (a)(2)(ii) to read as follows;

e. Removing from paragraph (b) “the Act” and adding “the Service Contract Labor Standards statute” in its place.

**22.1008–1 [Amended]**

175. Amend section 22.1008–1 by removing from paragraph (e)(3) “whether Section 4(c) of the Act applies” and adding “whether 41 U.S.C. 6707(c) applies” in its place.

176. Amend section 22.1008–2 by—

a. Revising the section heading and paragraph (a);

b. Removing from paragraphs (b) introductory text, (c) introductory text, (c)(1), and (c)(2) introductory text “section 4(c) of the Act” and adding “41 U.S.C. 6707(c)” in its place;

c. Removing from paragraph (d)(1) “section 4(c) of the Act” and adding “41 U.S.C. 6707(c)”; and removing “Service Contract Act of 1965” and adding “Service Contract Labor Standards,” in its place;

d. Removing from paragraph (d)(3) “applicability of the Act” and adding “applicability of the Service Contract Labor Standards statute” in its place; and

e. Removing from paragraph (e)(1) “Section 4(c) of the Act” and adding “41 U.S.C. 6707(c)” in its place.

The revised text reads as follows:

**22.1008–2 Successorship with incumbent contractor collective bargaining agreement.**

(a) Early in the acquisition cycle, the contracting officer shall determine whether 41 U.S.C. 6707(c) affects the new acquisition. The contracting officer shall determine whether there is a predecessor contract covered by the Service Contract Labor Standards statute and, if so, whether the incumbent prime contractor or its subcontractors and any of their employees have a collective bargaining agreement.

\* \* \* \* \*

**22.1009–4 [Amended]**

177. Amend section 22.1009–4 by removing from paragraph (b) “Service Contract Act Place” and adding “Service Contract Labor Standards-Place” in its place.

**22.1012–2 [Amended]**

178. Amend section 22.1012–2 by removing from paragraphs (a) and (b) “section 4(c) of the Act” and adding “41 U.S.C. 6707 (c)” in their places.

**22.1015 [Amended]**

179. Amend section 22.1015 by removing “Service Contract Act” and “section 10 of the Act (41 U.S.C. 358)” and adding “Service Contract Labor Standards statute” and “41 U.S.C. 6707 (f),” in its place, respectively.

**22.1018 [Amended]**

180. Amend section 22.1018 by—  
a. Removing from paragraphs (a) “the Act” and adding “the Service Contract Labor Standards statute” in its place; and

b. Removing from paragraph (b) “the Act” and “Service Contract Act of 1965” and adding “the Service Contract Labor Standards statute” and “Service Contract Labor Standards.” in its place, respectively.

**22.1019 [Amended]**

181. Amend section 22.1019 by—  
 a. Removing from paragraphs (a) “Service Contract Act of 1965” and adding “Service Contract Labor Standards.” in its place; and  
 b. Removing from paragraph (c) “handicapped workers” and “Service Contract Act of 1965” and adding “disabled workers” and “Service Contract Labor Standards.” in its place, respectively.

**22.1020 [Amended]**

182. Amend section 22.1020 by removing “Service Contract Act of 1965” and adding “Service Contract Labor Standards.” in its place.

**22.1022 [Amended]**

183. Amend section 22.1022 by removing “Service Contract Act of 1965” and “Service Contract Act” and adding “Service Contract Labor Standards,” and “Service Contract Labor Standards statute” in its place, respectively.

184. Revise section 22.1023 to read as follows:

**22.1023 Termination for default.**

As provided by the Service Contract Labor Standards statute, any contractor failure to comply with the requirements of the contract clauses related to the Service Contract Labor Standards statute may be grounds for termination for default (see paragraph (k) of the clause at 52.222–41, Service Contract Labor Standards).

**22.1025 [Amended]**

185. Amend section 22.1025 by removing “the Act” and adding “the Service Contract Labor Standards statute” in its place twice.

**22.1026 [Amended]**

186. Amend section 22.1026 by removing “Act of 1965” and adding “Labor Standards” in its place.

187. Revise section 22.1101 to read as follows:

**22.1101 Applicability.**

The Service Contract Act of 1965, now codified at 41 U.S.C. chapter 67,

Service Contract Labor Standards, was enacted to ensure that Government contractors compensate their blue-collar service workers and some white-collar service workers fairly, but it does not cover bona fide executive, administrative, or professional employees.

188. Revise section 22.1502 to read as follows:

**22.1502 Policy.**

Agencies must take appropriate action to enforce the laws prohibiting the manufacture or importation of products that have been mined, produced, or manufactured wholly or in part by forced or indentured child labor, consistent with 19 U.S.C. 1307, 29 U.S.C. 201, *et seq.*, and 41 U.S.C. chapter 65. Agencies should make every effort to avoid acquiring such products.

189. Amend section 22.1801 in the definition “Commercially available off-the-sheet (COTS) item” by revising the first sentence of paragraph (2) to read as follows:

**22.1801 Definitions.**

\* \* \* \* \*

Commercially available off-the-sheet (COTS) item \* \* \*

(2) Does not include bulk cargo, as defined 46 U.S.C. 40102(4), such as agricultural products and petroleum products. \* \* \*

\* \* \* \* \*

**PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**

190. Revise section 23.500 to read as follows:

**23.500 Scope of subpart.**

This subpart implements 41 U.S.C. chapter 81, Drug-Free Workplace.

191. Revise section 23.502 to read as follows:

**23.502 Authority.**

41 U.S.C. chapter 81, Drug Free Workplace.

192. Amend section 23.704 by revising paragraph (b)(1)(ii) to read as follows:

**23.704 Electronic products environmental assessment tool.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) Is a voluntary consensus standard consistent with Section 12(d) of Pub. L. 104–113 (15 U.S.C. 272 note), the “National Technology Transfer and Advancement Act of 1995”, (see 11.102(c));

\* \* \* \* \*

**PART 24—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION**

**24.202 [Amended]**

193. Amend section 24.202 by—

a. Removing from paragraph (a) “41 U.S.C. 253b” and adding “41 U.S.C. 4702” in its place; and

b. Removing from paragraph (b) “41 U.S.C. 254b (d)(2)(c)” and adding “41 U.S.C. 3505(b)(3)” in its place.

**PART 25—FOREIGN ACQUISITION**

194. Amend section 25.000 by revising paragraph (b) to read as follows:

**25.000 Scope of part.**

\* \* \* \* \*

(b) It implements 41 U.S.C. chapter 83, Buy American; trade agreements; and other laws and regulations.

195. Amend section 25.001 by revising paragraph (a); and removing from paragraphs (b), (c), and (c)(1) “Buy American Act” and adding “Buy American statute” in their places. The revised text reads as follows: *25.001 General.*

(a) 41 U.S.C. chapter 83, Buy American—

\* \* \* \* \*

196. Amend section 25.002 by revising the table to read as follows:

**25.002 Applicability of subparts.**

\* \* \* \* \*

Subpart	Supplies for use		Construction		Services performed	
	Inside U.S.	Outside U.S.	Inside U.S.	Outside U.S.	Inside U.S.	Outside U.S.
25.1 Buy American—Supplies .....	X	.....	.....	.....	.....	.....
25.2 Buy American—Construction Materials .....	.....	.....	X	.....	.....	.....
25.3 Contracts Performed Outside the United States .....	.....	X	.....	X	.....	X
25.4 Trade Agreements .....	X	X	X	X	X	X
25.5 Evaluating Foreign Offers—Supply Contracts .....	X	X	.....	.....	.....	.....
25.6 American Recovery and Reinvestment Act—Buy American statute—Construction Materials .....	.....	.....	.....	.....	X	.....

**25.004 [Amended]**

197. Amend section 25.004 by removing from paragraph (a) “41 U.S.C. 10a” and adding “41 U.S.C. 8302(b)” in its place.

198. Amend subpart 25.1 by revising the section heading to read as follows:

**Subpart 25.1—Buy American—Supplies**

199. Amend section 25.100 by revising paragraphs (a)(1) and (a)(3) to read as follows

**25.100 Scope of subpart.**

(a) \* \* \*

(1) 41 U.S.C. chapter 83, Buy American;

\* \* \* \* \*

(3) Waiver of the component test of the Buy American statute for acquisition of commercially available off-the-shelf (COTS) items in accordance with 41 U.S.C. 1907.

\* \* \* \* \*

**25.101 [Amended]**

200. Amend section 25.101 by—  
a. Removing from paragraph (a) “Buy American Act” and adding “Buy American statute” in its place (two times);

b. Removing from paragraph (a)(2) “41 U.S.C. 431” and “Buy American Act” and adding “41 U.S.C. 1907” and “Buy American statute” in its place, respectively; and

c. Removing from paragraph (b) “Buy American Act” and adding “Buy American statute” in its place.

**25.103 [Amended]**

201. Amend section 25.103 by removing from the introductory text, paragraphs (a), (b) introductory text, and (b)(1)(iii)(A) “Buy American Act” and adding “Buy American statute” in their places.

**25.105 [Amended]**

202. Amend section 25.105 by removing from the introductory text of paragraph (b) “Buy American Act” and adding “Buy American statute” in its place.

203. Amend Subpart 25.2 by revising the subpart heading to read as follows:

**Subpart 25.2—Buy American—Construction Materials**

204. Amend section 25.200 by revising paragraphs (a)(1) and (a)(3) to read as follows:

**25.200 Scope of subpart.**

(a) \* \* \*

(1) 41 U.S.C. chapter 83, Buy American;

\* \* \* \* \*

(3) Waiver of the component test if the buy American statute for acquisitions of commercially available off-the-shelf (COTS) items in accordance with 41 U.S.C. 1907.

\* \* \* \* \*

**25.202 [Amended]**

205. Amend section 25.202 by removing from paragraphs (a) and (a)(1) “Buy American Act” and adding “Buy American statute” in their places (three times).

**25.203 [Amended]**

206. Amend section 25.203 by removing from paragraph (a) “Buy American Act” and adding “Buy American statute” in its place.

**25.204 [Amended]**

207. Amend section 25.204 by removing from paragraph (b) “Buy American Act” and adding “Buy American statute” in its place.

**25.205 [Amended]**

208. Amend section 25.205 by removing from paragraphs (a), (b), and (c) “Buy American Act” and adding “Buy American statute” in their places.

**25.206 [Amended]**

209. Amend section 25.206 by removing from paragraphs (a), (c)(1), and (c)(3) “Buy American Act” and adding “Buy American statute” in their places (four times).

**25.400 [Amended]**

210. Amend section 25.400 by removing from paragraph (a)(2)(ii) “(Public Law 108–77)” and adding “(Public Law 108–77) (19 U.S.C. 3805 note)” in its place; and removing from paragraph (a)(6) “Buy American Act” and adding “Buy American statute” in its place.

**25.402 [Amended]**

211. Amend section 25.402 by removing from the introductory text of paragraph (a)(1) “Buy American Act” and adding “Buy American statute” in their places (two times).

**25.405 [Amended]**

212. Amend section 25.405 by removing “(Pub. L. 109–53)” and adding “(Pub. L. 109–53) (19 U.S.C. 4031)” in its place.

**25.406 [Amended]**

213. Amend section 25.406 by removing “Buy American Act” and adding “Buy American statute” in its place.

**25.407 [Amended]**

214. Amend section 25.407 by removing “Buy American Act” and

adding “Buy American statute” in its place.

**25.501 [Amended]**

215. Amend section 25.501 by removing from paragraph (d) “Buy American Act” and adding “Buy American statute” in its place.

**25.502 [Amended]**

216. Amend section 25.502 by removing from paragraphs (c), (c)(3), (d)(2), and (d)(3) “Buy American Act” and adding “Buy American statute” in their places.

217. Amend section 25.504–1 by revising the section heading; and removing from paragraphs (a)(2) and (b)(2) “Buy American Act” and adding “Buy American statute” in their places. The revised text reads as follows:

**25.504–1 Buy American statute.**

\* \* \* \* \*

**25.504–4 [Amended]**

218. Amend section 25.504–4 by removing from paragraph (b) under the heading “Problem” the words “Buy American Act” and adding “Buy American statute” in its place.

219. Amend Subpart 25.6 by revising the subpart heading to read as follows:

**Subpart 25.6—American Recovery And Reinvestment Act—Buy American Statute—Construction Materials****25.600 [Amended]**

220. Amend section 25.600 by removing “the Buy American Act” and adding “41 U.S.C. chapter 83, Buy American (referred to in this subpart as the Buy American Statute)” in its place.

**25.601 [Amended]**

221. Amend section 25.601 by removing from paragraph (1) of the definition “Domestic construction material” the words “Buy American Act” and adding “Buy American statute” in its place.

222. Amend section 25.602–2 by revising the section heading; and removing “Buy American Act” and adding “Buy American statute” in its place. The revised text reads as follows:

**25.602–2 Buy American statute.**

\* \* \* \* \*

**25.603 [Amended]**

223. Amend section 25.603 by removing from paragraphs (a)(1), (a)(1)(iii), and (a)(2) “Buy American Act” and adding “Buy American statute” in its place.

224. Amend section 25.604 by revising the section heading; and removing from paragraph (a) “Buy



American Act” and adding “Buy American statute” in its place. The revised text reads as follows:

**25.604 Preaward determination concerning the inapplicability of section 1605 of the Recovery Act or the Buy American statute.**

\* \* \* \* \*

**25.606 [Amended]**

225. Amend section 25.606 by removing from paragraphs (a), (b), and (c) “Buy American Act” and adding “Buy American statute” in its place.

**25.607 [Amended]**

226. Amend section 25.607 by removing from paragraphs (a), (c)(1), and (c)(3) “Buy American Act” and adding “Buy American statute” in its places (four times).

**25.700 [Amended]**

227. Amend section 25.700 by removing from paragraph (b) “110–174)” and adding “110–174) (50 U.S.C. 1701 note)” in its place.

**25.1001 [Amended]**

228. Amend section 25.1001 by removing from paragraph (a) “41 U.S.C. 254d” and adding “41 U.S.C. 4706” in its place.

**25.1101 [Amended]**

229. Amend section 25.1101 by—  
 a. Removing from the introductory text of paragraph (a)(1) “Act”;  
 b. Removing from paragraph (a)(1)(ii) “Buy American Act” and adding “Buy American statute” in its place;  
 c. Removing from paragraphs (a)(1), (a)(2), (b)(1)(i), and (b)(2)(i) “Act”; and  
 d. Removing from paragraphs (a)(1)(ii), (c)(1), and (d) “Buy American Act” and adding “Buy American statute” in its place.

**25.1102 [Amended]**

230. Amend section 25.1102 by—  
 a. Removing from paragraph (a) “Act”;  
 b. Removing from paragraph (a)(1) “Buy American Act” and adding “Buy American statute” in its place;  
 c. Removing from paragraph (b)(1) “Act”;  
 d. Removing from paragraph (b)(2) “Buy American Act” and adding “Buy American statute” in its place;  
 e. Removing from paragraph (c) “Act”;  
 f. Removing from paragraphs (c)(1) and (c)(3) “Buy American Act” and adding “Buy American statute” in its place;  
 g. Removing from paragraph (d)(1) “Act”; and  
 h. Removing from paragraphs (d)(2), (e)(3)(i), and (e)(3)(ii) “Buy American

Act” and adding “Buy American statute” in its place.

**PART 26—OTHER SOCIOECONOMIC PROGRAMS**

**26.400 [Amended]**

231. Amend section 26.400 by removing “(Pub. L. 110–247)” and adding “(42 U.S.C 1792)” in its place.

232. Amend section 26.403 by revising the introductory text of paragraph (a) to read as follows:

**26.403 Procedures.**

(a) In accordance with the Federal Food Donation Act of 2008 an executive agency shall comply with the following:

\* \* \* \* \*

**PART 27—PATENTS, DATA, AND COPYRIGHTS**

**27.304 [Amended]**

233. Amend sections 27.304 by removing from paragraph (c) “Disputes Act” and adding “Disputes statute” in its place (two times).

**PART 28—BONDS AND INSURANCE**

234. Amend section 28.102–1 by revising the introductory test of paragraph (a) and paragraph (a)(2) to read as follows.

**28.102–1 General.**

(a) The 40 U.S.C. chapter 31, subchapter III, Bonds, requires performance and payment bonds for any construction contract exceeding \$150,000, except that this requirement may be waived—

\* \* \* \* \*

(2) As otherwise authorized by the Bonds statute or other law.

\* \* \* \* \*

**28.102–2 [Amended]**

235. Amend section 28.102–2 by removing from paragraph (b) “\$150,000 Miller Act” and adding “\$150,000” in its place.

**28.106–1 [Amended]**

236. Amend section 28.106–1 by removing from paragraphs (h) and (i) “Miller Act”.

**28.106–4 [Amended]**

237. Amend section 28.106–4 by removing from paragraph (b) “Pub. L. 103–355” and adding “Pub. L. 103–355 (10 U.S.C. 2302 note)” in its place; and removing the words “the Miller Act” and adding “40 U.S.C. chapter 31, subchapter III, Bonds” in its place.

**28.106–6 [Amended]**

238. Amend section 28.106–6 by removing from paragraph (d) “Pub. L.

103–355” and adding “Pub. L. 103–355 (10 U.S.C. 2302 note)” in its place; and removing “Miller Act” and adding “bonds statute” in its place.

239. Amend section 28.202 by revising paragraph (a)(4) to read as follows.

**28.202 Acceptability of corporate sureties.**

(a) \* \* \*

(4) When specified in the solicitation, the contracting officer may accept a bond from the direct writing company in satisfaction of the total bond requirement of the contract. This is permissible until necessary reinsurance agreements are executed, even though the total bond requirement may exceed the insurer’s underwriting limitation. The contractor shall execute and submit necessary reinsurance agreements to the contracting officer within the time specified on the bid form, which may not exceed 45 calendar days after the execution of the bond. The contractor shall use Standard Form 273, Reinsurance Agreement for a Performance Bond, and Standard Form 274, Reinsurance Agreement for a Payment Bond, when reinsurance is furnished with the required performance or payment bonds. Standard Form 275, Reinsurance Agreement in Favor of the United States, is used when reinsurance is furnished with bonds for other purposes.

\* \* \* \* \*

**28.203–5 [Amended]**

240. Amend section 28.203–5 by removing from paragraphs (a)(1) and (a)(3) “Miller Act” and adding “Bonds Statute” in its place.

**28.204–3 [Amended]**

241. Amend section 28.204–3 by removing from paragraphs (f)(2)(i) and (f)(2)(ii), “Miller Act” and adding “Bonds Statute” in its place.

**PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION**

**30.101 [Amended]**

242. Amend section 30.101 by—  
 a. Removing from paragraph (a) “Public Law 100–679 (41 U.S.C. 422)” and adding “41 U.S.C. chapter 15, Cost Accounting Standards,” in its place; and  
 b. Removing from paragraph (b) “Public Law 100–679” and adding “41 U.S.C. chapter 15” in its place.

**PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES**

**31.205–1 [Amended]**

243. Amend section 31.205–1 by removing from paragraph (f)(8) “Pub L.

110–247) (see FAR Subpart 26.4)” and adding “42 U.S.C. 1792, see subpart 26.4)” in its place.

244. Amend section 31.205–6 by revising paragraph (g)(6) and (p)(1) to read as follows:

**31.205–6 Compensation for personal services.**

\* \* \* \* \*

(g) \* \* \*

(6) Under 10 U.S.C. 2324(e)(1)(M) and 41 U.S.C. 4304(a)(13), the costs of severance payments to foreign nationals employed under a service contract performed outside the United States are unallowable to the extent that such payments exceed amounts typically paid to employees providing similar services in the same industry in the United States. Further, under 10 U.S.C. 2324(e)(1)(N) and 41 U.S.C. 4304(a)(14), all such costs of severance payments that are otherwise allowable are unallowable if the termination of employment of foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country; this does not apply if the closing of a facility or curtailment of activities is made pursuant to a status-of-forces or other country-to-country agreement entered into with the government of that country before November 29, 1989. 10 U.S.C. 2324(e)(3) and 41 U.S.C. 4304(b) permit the head of the agency to waive these cost allowability limitations under certain circumstances (see 37.113 and the solicitation provision at 52.237–8).

\* \* \* \* \*

(p) \* \* \*

(1) Costs incurred after January 1, 1998, for compensation of a senior executive in excess of the benchmark compensation amount determined applicable for the contractor fiscal year by the Administrator, Office of Federal Procurement Policy (OFPP), under 41 U.S.C. 1127 are unallowable (10 U.S.C. 2324(e)(1)(P) and 41 U.S.C. 4304(a)(16)).

\* \* \* \* \*

**31.205–47 [Amended]**

245. Amend section 31.205–47 by removing from paragraph (a)(3) “the Anti-Kickback Act, 41 U.S.C., sections 51 and 54” and adding “41 U.S.C. chapter 87, Kickbacks” in its place.

**31.603 [Amended]**

246. Amend section 31.603 by—  
a. Removing from the introductory text of paragraph (b) “41 U.S.C. 256(e)” and adding “41 U.S.C. 4304 (a)” in its place; and

b. Removing from paragraph (b)(15) “41 U.S.C. 256(k)” and adding “41 U.S.C. 4310” in its place.

**31.703 [Amended]**

247. Removing from paragraph (b) “41 U.S.C. 256(e)” and adding “41 U.S.C. 4304” in its place.

**PART 32—CONTRACT FINANCING**

248. Amend section 32.006–1 by revising paragraph (a) and the first sentence of paragraph (b) to read as follows:

**32.006–1 General.**

(a) Under 10 U.S.C. 2307(i)(8), the statutory authority implemented by this section is available to the Department of Defense and the National Aeronautics and Space Administration; this statutory authority is not available to the United States Coast Guard. Under 41 U.S.C. Division B of subtitle I (Procurement) and 4506, this statutory authority is available to all agencies subject to that statute.

(b) 10 U.S.C. 2307(i)(2) and 41 U.S.C. 4506 provide for a reduction or suspension of further payments to a contractor when the agency head determines there is substantial evidence that the contractor’s request for advance, partial, or progress payments is based on fraud. \* \* \*

\* \* \* \* \*

**32.006–2 [Amended]**

249. Amend section 32.006–2 by removing from the definition “Remedy coordination official” the word “41 U.S.C. 255(g)(9)” and adding “41 U.S.C. 4506(a)” in its place.

**32.006–5 [Amended]**

250. Amend section 32.006–5 by removing from paragraph (a) “41 U.S.C. 255” and “10 U.S.C. 2307” and adding “41 U.S.C. 4506(h)” and “10 U.S.C. 2307(i)(7)” in their places; respectively; and removing from paragraph (b) “41 U.S.C. 255” and “10 U.S.C. 2307” adding “41 U.S.C. 4506(h)” and “10 U.S.C. 2307(i)(7)” in their places; respectively.

251. Revise section 32.101 read as follows:

**32.101 Authority.**

The basic authority for the contract financing described in this part is contained in (41 U.S.C. chapter 45, Contracting Financing), 10 U.S.C. 2307, and Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091).

**32.102 [Amended]**

252. Amend section 32.102 by removing from paragraph (d) “41 U.S.C.

255” and adding “41 U.S.C. chapter 45” in its place.

**32.112–1 [Amended]**

253. Amend section 32.112–1 by removing from paragraph (a) “Pub. L. 103–355” and adding “Pub. L. 103–355 (10 U.S.C. 2302)” in its place.

**32.112–2 [Amended]**

254. Amend section 32.112–2 by removing from the introductory text of paragraph (a) “Pub. L. 103–355” and adding “Pub. L. 103–355 (10 U.S.C. 2302)” in its place.

**32.201 [Amended]**

255. Amend section 32.201 by removing “41 U.S.C. 255(f)” and adding “41 U.S.C. 4505” in its place.

**32.202–4 [Amended]**

256. Amend section 32.202–4 by removing from the introductory text of paragraph (a)(1) “41 U.S.C. 255(f)” and adding “41 U.S.C. 4505” in its place.

257. Amend section 32.401 by revising paragraphs (a) and (b) to read as follows:

**32.401 Statutory Authority.**

\* \* \* \* \*

(a) 41 U.S.C. chapter 45;

(b) 10 U.S.C. 2307; or

\* \* \* \* \*

258. Amend section 32.410 by revising paragraph (c), under the heading “Authorization”, to read as follows.

**32.410 Findings, determination, and authorization.**

\* \* \* \* \*

(c) The advance payments, of which (the amount at any time outstanding) (the aggregate amount, less the aggregate amounts repaid, or withdrawn by the Government), shall not exceed \$ \_\_\_\_\_, are hereby authorized under (41 U.S.C. chapter 45, Contract Financing.) (10 U.S.C. 2307) (the Extraordinary Contracting Authority of Government Agencies in Connection with National Defense Functions (50 U.S.C. 1431–1435) and Executive Order No. 10789 of November 14, 1958 (3 CFR 1958 Supp. pp. 72–74)) or, if other, cite appropriate authority on (terms substantially as contained in the proposed advance payment clause, a copy (an outline) of which is annexed to this authorization) (the following terms:) Insert the appropriate terms. (All prior authorizations for advance payments under Contract No. \_\_\_\_\_ are superseded.)

\* \* \* \* \*

**32.501–1 [Amended]**

259. Amend section 32.501–1 by removing from paragraph (d) “41 U.S.C. 255” and adding “41 U.S.C. 4504(b)” in its place.

**32.604 [Amended]**

260. Amend section 32.604 by removing from paragraph (b)(4)(ii) “Section 611 of the Contract Disputes Act of 1978 (Public Law 95–563)” and adding “(41 U.S.C. 7109)” in its place.

**32.606 [Amended]**

261. Amend section 32.606, by removing from paragraph (a) “41 U.S.C. 15” and adding “41 U.S.C. 6305” in its place.

**32.703–3 [Amended]**

262. Amend section 32.703–3, by removing from paragraph (a), “41 U.S.C. 11a” and adding “41 U.S.C. 6302” in its place; and removing from paragraph (b) “41 U.S.C. 2531” and adding “41 U.S.C. 3902” in its place.

**32.800 [Amended]**

263. Amend section 32.800 by removing “31 U.S.C. 3727, 41 U.S.C. 15” and adding “31 U.S.C. 3727, and 41 U.S.C. 6305” in its place.

**32.805 [Amended]**

264. Amend section 32.805, by removing from paragraph (c), under the heading “Notice of Assignment” in the second paragraph, “31 U.S.C. 3727, 41 U.S.C. 15” and adding “31 U.S.C. 3727, and 41 U.S.C. 6305” in its place.

**PART 33—PROTESTS, DISPUTES, AND APPEALS****33.102 [Amended]**

265. Amend section 33.102 by removing from paragraph (f) “41 U.S.C. 423(g)” and adding “41 U.S.C. 2106” in its place.

**33.201 [Amended]**

266. Amend section 33.201 by removing from the definition “Defective certification” the words “a person duly” and adding “a person” in its place.

267. Revise section 33.202 to read as follows.

**33.202 Disputes.**

41 U.S.C. Chapter 71, Disputes, establishes procedures and requirements for asserting and resolving claims subject to the Disputes statute. In addition, the Disputes statute provides for:

- 268. Amend section 33.203 by—
  - a. Revising paragraph (b)(1);
  - b. Removing from paragraphs (b)(2) “Act” and adding “Disputes statute” in its place; and

C. Revising paragraph (c).  
The revised text read as follows:

**33.203 Applicability.**

\* \* \* \* \*

(b) \* \* \*

(1) A foreign government or agency of that government; or

\* \* \* \* \*

(c) This part applies to all disputes with respect to contracting officer decisions on matters “arising under” or “relating to” a contract. Agency Boards of Contract Appeals (BCA’s) authorized under the Disputes statute continue to have all of the authority they possessed before the Disputes statute with respect to disputes arising under a contract, as well as authority to decide disputes relating to a contract. The clause at 52.233–1, Disputes, recognizes the “all disputes” authority established by the Disputes statute and states certain requirements and limitations of the Disputes statute for the guidance of contractors and contracting agencies. The clause is not intended to affect the rights and obligations of the parties as provided by the Disputes statute or to constrain the authority of the statutory agency BCA’s in the handling and deciding of contractor appeals under the Disputes statute.

**33.205 [Amended]**

269. Amend section 33.205 by—

- a. Removing from the section heading “Act” and adding “Disputes statute” in its place;

- b. Removing from paragraph (a) “contract Disputes Act of 1978” and adding “Disputes statute” in its place;
- c. Removing from paragraph (b) “under the Act” and adding “under the Dispute statute” in its place; and

- d. Removing from paragraph (c) “Disputes Act of 1978” and adding “Disputes statute” in its place.

**33.207 [Amended]**

270. Amend section 33.207 by removing from paragraph (e) “duly”.

**33.208 [Amended]**

271. Amend section 33.208 by removing from paragraph (b) “the Act” and adding “the Disputes statute” in its place.

**33.211 [Amended]**

272. Amend section 33.210 by removing from paragraph (a)(4)(v)(2) “the Contract Dispute Act of 1978, 41 U.S.C. 603” and adding “41 U.S.C. 7102(d),” in its place.

273. Revise the first and second sentences of paragraph (a) to read as follows:

**33.213 Obligation to continue performance.**

(a) In general, before passage of the Disputes statute, the obligation to continue performance applied only to claims arising under a contract. However, the Disputes statute at 41 U.S.C. 605(b) 7103(g), authorizes agencies to require a contractor to continue contract performance in accordance with the contracting officer’s decision pending a final resolution of any claim arising under, or relating to, the contract. \* \* \*

\* \* \* \* \*

**PART 36—CONSTRUCTION AND ARCHITECT—ENGINEER****36.104 [Amended]**

274. Amend section 36.104 by removing from paragraph (a) “the Brooks Architect-Engineers Act (40 U.S.C. 1101, *et seq.*)” and “41 U.S.C. 253m” and adding “40 U.S.C. chapter 11, Selection of Architects and Engineers,” and “41 U.S.C. 3309” in their places; respectively.

**36.300 [Amended]**

275. Amend section 36.300 by removing “41 U.S.C. 253m” and adding “41 U.S.C. 3309” in its place.

**PART 37—SERVICE CONTRACTING**

276. Amend section 37.000 by revising the last sentence to read as follows:

**37.000 Scope of part.**

\* \* \* This part includes, but is not limited to, contracts for services to which 41 U.S.C. chapter 67, Service Contract Labor Standards, applies (see subpart 22.10).

**37.106 [Amended]**

277. Amend section 37.106 by removing from paragraph (b) “41 U.S.C. 2531” and adding “41 U.S.C. 3902” in its place.

278. Revise section 37.107 to read as follows.

**37.107 Service Contract Labor Standards.**

41 U.S.C. chapter 67, Service Contract Labor Standards, provides for minimum wages and fringe benefits as well as other conditions of work under certain types of service contracts. Whether or not the Service Contract Labor Standards statute applies to a specific service contract will be determined by the definitions and exceptions given in the Service Contract Labor Standards statute, or implementing regulations.

**37.202 [Amended]**

279. Amend section 37.202 by removing from paragraph (b) “the

Brooks Architect-Engineers Act (40 U.S.C. 1102)” and adding “40 U.S.C. 1102” in its place.

280. Amend section 37.203 by revising paragraph (d)(2) to read as follows.

**37.203 Policy.**

\* \* \* \* \*

(d) \* \* \*

(2) The contractor is a Federally-Funded Research and Development Center (FFRDC) as authorized in 41 U.S.C. 1709(c) and the work placed under the FFRDC’s contract meets the criteria of 35.017–3; or

\* \* \* \* \*

281. Revise section 37.301 to read as follows:

**37.301 Labor standards.**

Contracts for dismantling, demolition, or removal of improvements are subject to either 41 U.S.C. chapter 67, Service Contract Labor Standards or 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction). If the contract is solely for dismantling, demolition, or removal of improvements, the Service Contract Labor Standards statute applies unless further work which will result in the construction, alteration, or repair of a public building or public work at that location is contemplated. If such further construction work is intended, even though by separate contract, then the Construction Wage Rate Requirements statute applies to the contract for dismantling, demolition, or removal.

**37.302 [Amended]**

282. Amend section 37.302 by removing from the introductory text “the Miller Act (40 U.S.C. 3131 *et seq.*)” and adding “41 U.S.C. chapter 31, subchapter III, Bonds,” in its place.

**37.401 [Amended]**

283. Amend section 37.401 by removing from the introductory paragraph “41 U.S.C. 253” and adding “41 U.S.C. chapter 33, Planning and Solicitation” in its place.

**PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING**

**38.101 [Amended]**

284. Amend section 38.101 by removing from paragraph (a) “41 U.S.C. 259(b)(3)(A)” and adding “41 U.S.C. 152(3)” in its place.

**PART 39—ACQUISITION OF INFORMATION TECHNOLOGY**

**39.103 [Amended]**

285. Amend section 39.103 by removing from paragraph (a) “Section

5202, Incremental Acquisition of Information Technology, of the Clinger-Cohen Act of 1996 (Public Law 104–106)” and adding “41 U.S.C. 2308” in its place.

**PART 41—ACQUISITION OF UTILITY SERVICES**

**41.101 [Amended]**

286. Amend section 41.101 by removing from the definition “Utility service” the words “Service Contract Act of 1965” and adding “41 U.S.C. chapter 67, Service Contract Labor Standards” in its place.

**PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES**

**42.703–1 [Amended]**

287. Amend section 42.703–1 by—  
a. Removing from paragraph (a) “41 U.S.C. 254(d)” and adding “41 U.S.C. 4706(e)” in its place; and

b. Removing from the introductory text of paragraph (c) “41 U.S.C. 256(a)” and adding “41 U.S.C. 4303(a)” in its place.

**42.703–2 [Amended]**

288. Amend section 42.703–2 by—  
a. Removing from paragraph (a) “41 U.S.C. 256(h)” and adding “41 U.S.C. 4307” in its place; and

b. Removing from paragraph (e) “41 U.S.C. 256(a) through (d)” and adding “41 U.S.C. 4303” in its place.

**42.705–1 [Amended]**

289. Amend section 42.705–1 by removing from paragraph (b)(4) “41 U.S.C. 256(f)” and adding “41 U.S.C. 4305” in its place.

**42.705–3 [Amended]**

290. Amend section 42.705–3 by removing from paragraph (b)(1) “41 U.S.C. 254(a)” and adding “41 U.S.C. 4708” in its place.

**42.709 [Amended]**

291. Amend section 42.709 by removing from the introductory text of paragraph (a) “41 U.S.C. 256(a) through (d)” and adding “41 U.S.C. 4303” in its place.

292. Amend section 42.1203 by revising paragraph (a) to read as follows:

**42.1203 Processing agreements.**

(a) If a contractor wishes the Government to recognize a successor in interest to its contracts or a name change, the contractor must submit a written request to the responsible contracting officer (see 42.1202). If the contractor received its contract under Subpart 8.7 under 41 U.S.C. chapter 85,

Committee for Purchase from People Who Are Blind or Severely Disabled, use the procedures at 8.716 instead.

\* \* \* \* \*

**42.1204 [Amended]**

293. Amend section 42.1204 by removing from the introductory text of paragraph (a) “41 U.S.C. 15” and adding “41 U.S.C. 6305” in its place.

**42.1601 [Amended]**

294. Amend section 42.1601 by removing “the Contract Disputes Act of 1978 (41 U.S.C. 601–613)” and adding “41 U.S.C. chapter 71, Contract Disputes” in its place.

**PART 43—CONTRACT MODIFICATIONS**

**43.102 [Amended]**

295. Amend section 43.102 by removing paragraph (c).

**PART 44—SUBCONTRACTING POLICIES AND PROCEDURES**

**44.201–2 [Amended]**

296. Amend section 44.201–2 by removing from paragraph (b) “41 U.S.C. 254(b)” and adding “41 U.S.C. 3905” in its place.

**44.202–2 [Amended]**

297. Amend section 44.202–2 by removing from paragraph (a)(4)(ii) “Javits-Wagner-O’Day Act (41 U.S.C. 48)” and adding “41 U.S.C. 8504” in its place.

**44.400 [Amended]**

298. Amend section 44.400 by removing “with section 8002(b)(2) of Public Law 103–355” and adding “with 41 U.S.C. 3307” in its place.

**44.402 [Amended]**

299. Amend section 44.402 by removing from paragraph (b) “and Commercial Components”.

**PART 46—QUALITY ASSURANCE**

**46.102 [Amended]**

300. Amend section 46.102 by removing from paragraph (f) “Section 8002 of Public Law 103–355” and adding “with 41 U.S.C. 3307” in its place.

**PART 47—TRANSPORTATION**

301. Amend section 47.202 by revising paragraph (a) to read as follows:

**47.202 Presolicitation planning.**

\* \* \* \* \*

(a) The Service Contract Labor Standards statute requirement to obtain a wage determination by accessing the

Wage Determination OnLine Web site (<http://www.wdol.gov>) using the WDOL process or by submitting a request directly to the Department of Labor on this Web site using the e98 process before the issuance of an invitation for bid, request for proposal, or commencement of negotiations for any contract exceeding \$2,500 that may be subject to the Service Contract Labor Standards statute (see subpart 22.10);

\* \* \* \* \*

## PART 48—VALUE ENGINEERING

### 48.102 [Amended]

302. Amend section 48.102 by—

a. Removing from paragraph (a) “Section 36 of the Office of Federal Procurement Policy Act (41 U.S.C. 401, *et seq.*)” and adding “41 U.S.C. 1711” in its place; and

b. Removing from paragraph (e) “41 U.S.C. 254(b)” and adding “41 U.S.C. 3905” in its place.

## PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

### 50.101–2 [Amended]

303. Amend section 50.101–2 by removing from paragraph (c) “the Contract Disputes Act of 1978” and adding “with 41 U.S.C. chapter 71, Contract Disputes” in its place.

### 50.102–3 [Amended]

304. Amend section 50.102–3 by removing from paragraph (c) “10 U.S.C. 2304(a)(15) or 41 U.S.C. 252(c)(14), or”.

305. Amend section 50.103–7 by revising paragraph (b) to read as follows:

### 50.103–7 Contract requirements.

\* \* \* \* \*

(b) The authority in 50.101–1(a) shall not be used to omit from contracts, when otherwise required, the clauses at 52.203–5, Covenant Against Contingent Fees; 52.215–2, Audit and Records—Negotiation; 52.222–4, Contract Work Hours and Safety Standards—Overtime Compensation; 52.222–6, Construction Wage Rate Requirements; 52.222–10, Compliance With Copeland Act Requirements; 52.222–20, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000; 52.222–26, Equal Opportunity; and 52.232–23, Assignment of Claims.

## PART 51—USE OF GOVERNMENT SOURCES BY CONTRACTORS

306. Amend section 51.101 by—

a. Revising the introductory text of paragraph (a)(3); and

b. Removing from paragraph (a)(3)(i) “Government,” and adding “Government;” in its place.

The revised text reads as follows:

### 51.101 Policy.

(a) \* \* \*

(3) A contract under 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled, if—

\* \* \* \* \*

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 52.203–5 [Amended]

307. Amend section 52.203–5 by removing from the clause heading “(Apr 1984)” and adding “(Date)” in its place; and removing from paragraph (a) “, in its discretion,”.

308. Amend section 52.203–7 by—

a. Revising the date of the clause; and

b. Removing from paragraph (a), in the definition “Kickback” the words “, directly or indirectly,”.

c. Revising the introductory text of paragraph (b); and

d. Removing from paragraph (c)(2) “Department of Justice” and adding “Attorney General” in its place.

The revised text reads as follows:

### 52.203–7 Anti-Kickback Procedures.

\* \* \* \* \*

### Anti-Kickback Procedures (Date)

\* \* \* \* \*

(b) 41 U.S.C. chapter 87, Kickbacks, prohibits any person from—

\* \* \* \* \*

309. Amend section 52.203–8 by—

a. Revising the date of the clause; and

b. Revising the introductory text of paragraph (a) and paragraphs (a)(2)(i) and (a)(2)(ii) to read as follows:

### 52.203–8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.

\* \* \* \* \*

### Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Date)

(a) If the Government receives information that a contractor or a person has violated 41 U.S.C. 2102–2104, Restrictions on Obtaining and Disclosing Certain Information the Government may—

\* \* \* \* \*

(2) \* \* \*

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct violates 41 U.S.C. 2102 for the purpose of either—

\* \* \* \* \*

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct punishable under 41 U.S.C. 2105(a).

\* \* \* \* \*

310. Amend section 52.203–10 by—

a. Revising the date of the clause;

b. Revising paragraph (a); and

c. Removing from paragraph (c) “Act” and adding “statute” in its place.

The revised text reads as follows:

### 52.203–10 Price or Fee Adjustment for Illegal or Improper Activity.

\* \* \* \* \*

### Price or Fee Adjustment for Illegal or Improper Activity (Date)

(a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of 41 U.S.C. 2102 or 2103, as implemented in section 3.104 of the Federal Acquisition Regulation.

\* \* \* \* \*

311. Amend section 52.204–8 by—

a. Revising the date of the provision; and

b. Removing from paragraphs (c)(1)(xvi) and (c)(1)(xvii) “American Act” and adding “American”; and

c. Removing from paragraphs (c)(2)(iii) and (c)(2)(iv) “Act” and adding “Labor Standards” in its place.

The revised text reads as follows:

### 52.204–8 Annual Representations and Certifications.

\* \* \* \* \*

### Annual Representations And Certifications (Date)

### 52.208–9 [Amended]

312. Amend section 52.208–9 by removing from the clause heading “(Oct 2008)” and adding “(Date)” its place; and removing from paragraph (a) “the Javits-Wagner-O’Day Act (41 U.S.C. 48)” and adding “41 U.S.C. 8504” in its place.

### 52.209–6 [Amended]

313. Amend section 52.209–6 by removing from the clause heading “(Dec 2010)” and adding “(Date)” its place; and removing from paragraph (a)(2) “section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)” and adding “46 U.S.C. 40102(4)” in its place.

### 52.212–3 [Amended]

314. Amend section 52.212–3 by—

a. Removing from the provision heading “(Apr 2012)” and adding “(Date)” in its place;

b. Removing from paragraph (f) introductory text the word “Act” (two times);

c. Removing from paragraph (f)(1) “Act—”;

d. Removing from paragraph (g)(1) introductory text “American Act” and adding “American” in its place;

e. Removing from paragraph (g)(1)(i), (g)(1)(ii), (g)(1)(iii), (g)(2) introductory text, (g)(2)(g)(1)(ii), (g)(3) introductory text, and (g)(3)(g)(1)(ii) “Act—”;

f. Removing from paragraph (g)(4)(iii) “Act” and adding “statute” in its place;

g. Removing from paragraph (k) introductory text and (k)(3)(i) “Act” and adding “Labor Standards” in its place; and

h. Removing from the introductory paragraph of Alternate I “(Apr 2011)” and adding “(Date)” in its place; and removing from paragraph (12), fourth subparagraph “U.S. Trust Territory of the Pacific Islands (Republic of Palau)” and adding “Republic of Palau” in its place.

315. Amend section 52.212–4 by—

a. Removing from the clause heading “(Feb 2012)” and adding “(Date)” in its place;

b. Removing from paragraph (d) “the Contract Disputes Act of 1978, as amended (41 U.S.C. 601–613)” and adding “41 U.S.C. chapter 71, Contract Disputes” in its place;

c. Removing from paragraph (i)(6)(i) “Section 611 of the Contract Disputes Act of 1978 (Public Law 95–563)” and adding “41 U.S.C. 7109” in its place;

d. Revising paragraph (r); and

e. Amending Alternate I by—

1. Removing from the introductory paragraph “(Oct 2008)” and adding “(Date)” in its place; and

2. Removing from paragraph (i)(6)(i) “(Section 611 of the Contract Disputes Act of 1978 (Public Law 95–563)” and adding “41 U.S.C. 7109” in its place.

The revised text reads as follows:

#### 52.212–4 Contract Terms and Conditions—Commercial Items

\* \* \* \* \*

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4705 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

\* \* \* \* \*

316. Amend section 52.212–5 by—

a. Revising the clause heading;

b. Removing from paragraph (a)(3) “(Pub. L. 108–77, 108–78).” and adding “(Public Laws 108–77 and 108–78 (19 U.S.C. 3805 note)).” in its place;

c. Removing from paragraph (b)(1) “(41 U.S.C. 253g)” and adding “(41 U.S.C. 4704)” in its place;

d. Removing from paragraph (b)(2) “(Pub. L. 110–252, Title VI, Chapter 1 (41 U.S.C. 251 note)).” and adding “(41 U.S.C. 3509).” in its place;

e. Removing from paragraph (b)(6) “(Dec 2010)” and adding “(Date)” in its place;

f. Removing from paragraph (b)(14) “(Jan 2011)” and adding “(Date)” in its place;

g. Removing from paragraph (b)(34) “(Jan 2009)” and adding “(Date)” in its place;

h. Removing from paragraph (b)(39) “(Feb 2009)” and adding “(Date)” in its place; and removing “(41 U.S.C. 10a–10d)” and adding “41 U.S.C. chapter 83” in its place;

i. Revising paragraph (b)(40);

j. Removing from paragraphs (b)(45) and (b)(46) “(41 U.S.C. 255(f))” and adding “(41 U.S.C. 4505)” in their places;

k. Removing from paragraph (b)(49) “(Feb 2010)” and adding “(Date)” in its place;

l. Revising paragraphs (c)(1) through (c)(7);

m. Removing from paragraph (e)(1)(i) “(Pub. L. 110–252, Title VI, Chapter 1 (41 U.S.C. 251 note))” and adding “(41 U.S.C. 3509)” in its place;

n. Removing from paragraph (e)(1)(ii) “(Dec 2010)” and adding “(Date)” in its place;

o. Removing from paragraph (e)(1)(viii) “Act of 1965 (Nov 2007) (41 U.S.C. 351, *et seq.*)” and adding “Labor Standards (Date) (41 U.S.C. chapter 67)” in its place;

p. Revising paragraphs (e)(1)(x) and (e)(1)(xi);

q. Removing from paragraph (e)(1)(xii) “(Jan 2009)” and adding “(Date) (Executive Order 12989)” in its place;

r. Removing from paragraph (e)(1)(xiii) “(Mar 2009) (Pub. L. 110–247)” and adding “(Date) (42 U.S.C. 1792)” in its place; and

s. Amending Alternate II by—

1. Revising the date;

2. Removing from paragraph (e)(1)(ii)(A) “(Pub. L. 110–252, Title VI, Chapter 1 (41 U.S.C. 251 note))” and adding “(41 U.S.C. 3509)” in its place;

3. Removing from paragraph (e)(1)(ii)(C) “(Dec 2010)” and adding “(Date)” in its place;

4. Revising paragraph (e)(1)(ii)(H); and

5. Revising paragraphs (e)(1)(ii)(J) through (e)(1)(ii)(M).

The revised text reads as follows:

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

\* \* \* \* \*

#### Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (Date)

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

(40)(i) 52.225–3, Buy American Free Trade Agreements—Israeli Trade Act (Date) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, Pub. L. 108–77, 108–78, 108–286, 108–302, 109–53, 109–169, 109–283, and 110–138.

\* \* \* \* \*

(c) \* \* \*

(1) 52.222–41, Service Contract Labor Standards (Date) (41 U.S.C. chapter 67).

(2) 52.222–42, Statement of Equivalent Rates for Federal Hires (Date) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(3) 52.222–43, Fair labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts) (Date) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(4) 52.222–44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Date) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(5) 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for maintenance, Calibration, or Repair of Certain Equipment—Requirements (Date) (41 U.S.C. chapter 67).

(6) 52.222–53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (Date) (41 U.S.C. chapter 67).

(7) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (Date) (42 U.S.C. 1792).

\* \* \* \* \*

(e)(1) \* \* \*

(i) \* \* \*

\* \* \* \* \*

(x) 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (Date) (41 U.S.C. chapter 67).

(xi) 52.222–53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (Date) (41 U.S.C. chapter 67).

\* \* \* \* \*

Alternate II (Date) \* \* \*

\* \* \* \* \*

(e)(1) \* \* \*

(ii) \* \* \*

(H) 52.222–41, Service Contract Labor Standards (Date) (41 U.S.C. chapter 67).

\* \* \* \* \*

(J) 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (Date) (41 U.S.C. chapter 67).

(K) 52.222–53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (Date) (41 U.S.C. chapter 67).

(L) 52.222–54, Employment Eligibility Verification (Date) (Executive Order 12989).

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

\* \* \* \* \*

317. Amend section 52.213–4 by—

a. Removing from the clause heading “(Mar 2012)” and adding “(Date)” in its place;

b. Removing from paragraph (a)(1)(vii) “(Pub. L. 108–77, 108–78)” and adding “(Public Laws 108–77 and 108–78 (19 U.S.C. 3805 note))” in its place;

c. Removing from paragraph (a)(2)(vi) “(Jul 2002)” and adding “(Date)” in its place;

d. Removing from paragraph (a)(2)(vii) “(Jan 2011)” and adding “(Date)” in its place;

e. Removing from paragraph (b)(1)(ii) “Walsh-Healey Public Contracts Act (Oct 2010) (41 U.S.C. 35–45)” and adding “Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (Date) (41 U.S.C. chapter 65)” in its place;

f. Revising paragraph (b)(1)(vi);

g. Removing from paragraph (b)(1)(ix) “Act—Supplies (Feb 2009) (41 U.S.C. 10a-10d)” and adding “Supplies (Date) (41 U.S.C. chapter 83)” in its place;

h. Redesignating paragraphs (b)(1)(x) through (b)(1)(xii) as paragraph (b)(1)(xi) through (b)(1)(xiii) respectively;

i. Adding a new paragraph (b)(1)(x);

j. Removing from paragraph (b)(2)(i) “(Dec 2010)” and adding “(Date)” in its place;

k. Removing paragraph (b)(2)(iii); and

l. Redesignating paragraphs (b)(2)(iv) and (b)(2)(v) as paragraphs (b)(2)(iii) and (b)(2)(iv), respectively.

The revised text reads as follows:

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

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(vi) 52.222–41, Service Contract Labor Standards (Date) (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.)

\* \* \* \* \*

(x) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (DATE) (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.)

318. Amend section 52.219–1 by revising the introductory paragraph of Alternate I and paragraph (b)(9) of the checklist “Asian-Pacific American” to read as follows:

**52.219–1 Small Business Program Representations.**

\* \* \* \* \*

*Alternate I (DATE).* As prescribed in 19.308(a)(2), add the following paragraph (b)(9) to the basic provision:

(9) \* \* \*

\* \* \* \* \*

Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, Republic of Palau, Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

\* \* \* \* \*

319. Amend section 52.219–8 by revising the date of the clause; and removing from paragraph (a) “contracts let” and adding “contracts awarded” in its place.

The revised text reads as follows:

**52.219–8 Utilization of Small Business Concerns.**

\* \* \* \* \*

**Utilization of Small Business Concerns (Date)**

\* \* \* \* \*

320. Amend section 52.222–4 by—

a. Revising the section heading;

b. Revising the clause heading;

c. Removing from paragraph (b)

“Standards Act” and adding “Standards statute (found at 40 U.S.C. chapter 37)” in its place;

d. Removing from paragraph (c) “Act”; and

e. Removing from paragraph (d)(1) “Davis-Beacon Act” and adding “Construction Wage Rate Requirements statute” in its place.

The revised text reads as follows:

**52.222–4 Contract Work Hours and Safety Standards—Overtime Compensation.**

\* \* \* \* \*

**Contract Work Hours and Safety Standards—Overtime Compensation (Date)**

\* \* \* \* \*

321. Amend section 52.222–5 by—

a. Revising the section heading;

b. Revising the provision heading; and

c. Removing from paragraph (a)(1)

“Davis-Beacon Act” and adding “Construction Wage Rate Requirements” in its place.

The revised text reads as follows:

**52.222–5 Construction Wage Rate Requirements—Secondary Site of the Work.**

\* \* \* \* \*

**Construction Wage Rate Requirements—Secondary Site of Work (Date)**

\* \* \* \* \*

322. Amend section 52.222–6 by—

a. Revising the section heading;

b. Revising the clause heading;

c. Removing from paragraph (b)(2)

“Davis-Beacon Act” and adding

“Construction Wage Rate Requirements statute” in its place;

d. Removing from paragraph (b)(4)

“Davis-Beacon” and adding

“Construction Wage Rate Requirements” in its place; and

e. Removing from paragraph (e)

“Davis-Beacon Act” and adding

“Construction Wage Rate Requirements statute” in its place.

The revised text reads as follows:

**52.222–6 Construction Wage Rate Requirements.**

\* \* \* \* \*

**Construction Wage Rate Requirements (Date)**

\* \* \* \* \*

323. Amend section 52.222–7 by revising the date of the clause; and removing from the clause “Davis-Beacon”. The revised text reads as follows:

**52.222–7 Withholding of Funds.**

\* \* \* \* \*

**Withholding of Funds (Date)**

\* \* \* \* \*

324. Amend section 52.222–8 by revising the date of the clause and paragraph (a) to read as follows:

**52.222–8 Payrolls and Basic Records.**

\* \* \* \* \*

**Payrolls and Basic Records (Date)**

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141 (2)(B) (Construction Wage Rate Requirement statute)), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Construction Wage Rate Requirements, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B), the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the



apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

\* \* \* \* \*

325. Amend section 52.222–11 by—  
a. Revising the date of the clause;  
b. Removing from paragraphs (a)(4) and (a)(5) “Davis-Bacon Act” and adding “Construction Wage Rate Requirements” in its place; and  
c. Revising paragraphs (b)(1) and (b)(10) to read as follows:

**52.222–11 Subcontracts (Labor Standards).**

\* \* \* \* \*

**Subcontracts (Labor Standards) (Date)**

\* \* \* \* \*

(b) \* \* \*

(1) Construction Wage Rate Requirements;  
\* \* \* \* \*

(10) Compliance with Construction Wage Rate Requirements and Related Regulations; and

\* \* \* \* \*

326. Amend section 52.222–12 by revising the section and clause headings, and the clause to read as follows:

**52.222–12 Contract Termination—Debarment.**

\* \* \* \* \*

**Contract Termination—Debarment (Date)**

A breach of the contract clauses entitled Construction Wage Rate Requirements, Contract Work Hours and Safety Standards—Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Construction Wage Rate Requirements and Related Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

(End of Clause)

327. Amend section 52.222–13 by—  
a. Revising the heading of the clause; and

b. Removing from the introductory paragraph “Davis Bacon and Related Acts” and adding “Construction Wage Rate Requirements and related statutes” in its place.

The revised text reads as follows:

**52.222–13 Compliance with Construction Wage Rate Requirements and Related Act Regulations.**

\* \* \* \* \*

**Compliance With Construction Wage Rate Requirements and Related Act Regulations (Date)**

\* \* \* \* \*

328. Amend section 52.222–15 by revising the section and clause

headings, and paragraphs (a) and (b) to read as follows:

**52.222–15 Certification of Eligibility.**

\* \* \* \* \*

**Certification of Eligibility (Date)**

(a) By entering into this contract, the Contractor certifies that neither it nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b)(2) or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b)(2) or 29 CFR 5.12(a)(1).

\* \* \* \* \*

**52.222–16 [Amended]**

329. Amend section 52.222–16 by—

a. Removing from the clause heading “(Feb 1988)” and adding “(Date)” in its place; and

b. Removing from the introductory paragraph “Davis-Bacon Act” and adding “Construction Wage Rate Requirements” in its place.

330. Revise section 52.222–20 to read as follows:

**52.222–20 Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000.**

As prescribed in 22.610, insert the following clause in solicitations and contracts:

**Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (Date)**

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed \$15,000, and is subject to 41 U.S.C. chapter 65, the following terms and conditions apply:

(a) All stipulations required by 41 U.S.C. chapter 65 and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50–202.2). Learners, student learners, apprentices, and workers with disabilities may be employed at less than the prescribed minimum wage (see 41 CFR 50–202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 6508).

331. Amend section 52.222–30 by—

a. Revising the section and clause headings; and

b. Removing from paragraphs (a) and (b)(3) the words “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in its place.

The revised text reads as follows:

**52.222–30 Construction Wage Rate Requirements—Price Adjustment.**

\* \* \* \* \*

**Construction Wage Rate Requirements—Price Adjustment (None Or Separately Specified Method) (Date)**

\* \* \* \* \*

332. Amend section 52.222–31 by—  
a. Revising the section and clause headings; and

b. Removing from paragraphs (a), (b) introductory text, (b)(1), (b)(2), and (c)(3) the words “Davis-Bacon Act” and adding “Construction Wage Rate Requirements statute” in their places.

The revised text reads as follows:

**52.222–31 Construction Wage Rate Requirements—Price Adjustment.**

\* \* \* \* \*

**Construction Wage Rate Requirements—Price Adjustment (Percentage Method) (Date)**

\* \* \* \* \*

333. Amend section 52.222–32 by—  
a. Revising the section and clause headings; and

b. Removing from paragraphs (c)(1) and (c)(2) the words “Davis-Bacon Act” and adding “Construction Wage Rate Requirements” in its place.

The revised text reads as follows:

**52.222–32 Construction Wage Rate Requirements—Price Adjustment (Actual Method).**

\* \* \* \* \*

**Construction Wage Rate Requirements—Price Adjustment (Actual Method) (Date)**

\* \* \* \* \*

334. Amend section 52.222–41 by—  
a. Revising the section and clause headings;

b. Removing the definition “Act”;  
c. Removing from paragraph (b) “the Act” and “41 U.S.C. 356” and adding “41 U.S.C. chapter 67, Service Contract Labor Standards” and “41 U.S.C. 6702” in its place, respectively;

d. Removing from paragraphs (c)(2)(v) and (f) the words “the Act” and adding “the Service Contract Labor Standards statute” in their places;

e. Removing from paragraph (g) the words “section 2(a)(4) of the Act” and adding “41 U.S.C. 6703” in its place;

f. Removing from paragraphs (i)(1) introductory text and (i)(1)(i) “the Act” and adding “the Service Contract Labor Standards statute” in its place;

g. Removing from paragraph (j) “the Act” and “this Act” and adding “Service Contract Labor Standards statute” and “this statute” in its place, respectively;

h. Removing from paragraphs (k), (l), and (o) “the Act” and adding “the Service Contract Labor Standards statute” in their places;



- i. Revising paragraph (p)(1);
  - j. Removing from paragraph (p)(2) “section 5 of the Act” and adding “41 U.S.C. 6706” in its place;
  - k. Removing from paragraph (q) “Act” and adding “41 U.S.C. 6707” in its place;
  - l. Revising paragraphs (q)(1) and (q)(2);
  - m. Removing from the introductory text of paragraph (s) “section 2(a)(1) or section 2(b)(1) of the Act” and adding “41 U.S.C. 6703(1)” in its place;
  - n. Removing from paragraph (s)(3) “Contract Act” and adding “Contract Labor Standards” in its place; and
  - o. Removing from paragraph (s)(4) “section 4(c) of the Act” and adding “41 U.S.C. 6707(c)” in its place.
- The revised text reads as follows:

**52.222-41 Service Contract Labor Standards.**

\* \* \* \* \*

**Service Contract Labor Standards (Date)**

\* \* \* \* \*

(p) \* \* \*

(1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under 41 U.S.C. 6706.

\* \* \* \* \*

(q) \* \* \*

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by 41 U.S.C. 6703(1) without diminishing any fringe benefits or cash payments in lieu thereof required under 41 U.S.C. 6703(2), in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, persons with disabilities, and disabled clients of work centers under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the statute for the employment of apprentices, student-learners, persons with disabilities, or disabled clients of work centers not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR parts 520, 521, 524, and 525).

\* \* \* \* \*

335. Amend section 52.222-42 by revising the date of the clause and the introductory paragraph of the clause to read as follows:

**52.222-42 Statement of Equivalent Rates for Federal Hires.**

\* \* \* \* \*

**Statement of Equivalent Rates for Federal Hires (Date)**

In compliance with the Service Contract Labor Standards statute and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

\* \* \* \* \*

336. Amend section 52.222-43 by—

a. Revising the section and clause headings; and

b. Removing from paragraph (c) “Act of 1965, as amended” 41 U.S.C. 351, *et seq.*” and adding “Labor Standards statute (41 U.S.C. chapter 67)” in its place.

The revised text reads as follows:

**52.222-43 Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts).**

\* \* \* \* \*

**Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts) (Date)**

\* \* \* \* \*

337. Amend section 52.222-44 by revising the section heading and clause headings to read as follows:

**52.222-44 Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment.**

\* \* \* \* \*

**Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Date)**

\* \* \* \* \*

338. Amend section 52.222-48 by—

a. Revising the section and clause headings;

b. Removing from the introductory text of paragraph (b) “Contract Act” and adding “Contract Labor Standards statute” in its place;

c. Removing from paragraph (b)(1) the words “Act of 1965” and adding “Labor Standards” in its place; and

d. Removing from paragraphs (b)(2), (c)(1), and (c)(2) the words “Contract Act” and adding “Contract Labor Standards” in its place.

The revised text reads as follows:

**52.222-48 Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.**

\* \* \* \* \*

**Exemption From Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification (Date)**

\* \* \* \* \*

339. Amend section 52.222-49 by—

a. Revising the section and clause heading; and

b. Removing from paragraph (a) the words “Contract Act” and adding “Contract Labor Standards statute” in its place.

The revised text reads as follows:

**52.222-49 Service Contract Labor Standards—Place of Performance Unknown.**

\* \* \* \* \*

**Service Contract Labor Standards—Place of Performance Unknown (Date)**

\* \* \* \* \*

340. Amend section 52.222-51 by—

a. Revising the section and clause headings;

b. Removing from paragraph (e) the words “Contract Act” and adding “Contract Labor Standards statute” in its place.

The revised text reads as follows:

**52.222-51 Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements.**

\* \* \* \* \*

**Exemption From Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (Date)**

\* \* \* \* \*

341. Amend section 52.222-52 by—

a. Revising the section and clause headings;

b. Removing from the introductory text of paragraph (b) “Act” and adding “Labor Standards statute” in its place;

c. Removing from paragraph (b)(1) “Act of 1965” and adding “Labor Standards” in its place;

d. Removing from paragraph (b)(2) “Act” and adding “Labor Standards” in its place; and

e. Removing from paragraphs (c)(1) and (c)(2) “Act” and adding “Labor Standards” in its place.

The revised text reads as follows:

**52.222-52 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification.**

\* \* \* \* \*

**Exemption From Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification (Date)**

\* \* \* \* \*

342. Amend section 52.222-53 by—

- a. Revising the section and clause headings;
- b. Removing from paragraphs (f) and (g) “Act” and adding “Labor Standards statute” in their places.

The revised text reads as follows:

**52.222–53 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements.**

\* \* \* \* \*

**Exemption From Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (Date)**

\* \* \* \* \*

**52.222–54 [Amended]**

343. Amend section 52.222–54 by—
- a. Removing from the clause heading “(Jan 2009)” and adding “(Date)” in its place; and

b. Removing from paragraph (a)(2) “section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)” and adding “46 U.S.C. 40102(4)” in its place.

344. Amend section 52.225–1 by—

- a. Revising the section and clause headings;
- b. Removing from paragraph (a) in the definition “Commercially available of the shelf (COTS) item”, paragraph (2) “section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)” and adding “46 U.S.C. 40102(4)” in its place;
- c. Revising paragraph (b); and
- d. Removing from paragraph (d) the word “Act”.

The revised text read as follows:

**52.225–1 Buy American Supplies.**

\* \* \* \* \*

**Buy American Supplies (Date)**

\* \* \* \* \*

(b) 41 U.S.C. chapter 83, Buy American, provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for an end product that is a COTS item (See 12.505(a)(1))

\* \* \* \* \*

345. Amend section 52.225–2 by—

- a. Revising the section and clause headings; and
- b. Removing from paragraph (a) “Act”.

The revised text reads as follows:

**52.225–2 Buy American Certificate.**

\* \* \* \* \*

**Buy American Certificate (Date)**

\* \* \* \* \*

346. Amend section 52.225–3 by—
- a. Revising the section and clause headings;

b. Removing from paragraph (a) in the definition “Commercially available off-

the-shelf (COTS) item” the words “section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)” and adding “46 U.S.C. 40102(4)” in its place;

c. Revising paragraph (c); and

d. Amend Alternate I by—

1. Removing from the introductory paragraph “(Mar 2012)” and adding “(Date)” in its place;

2. Removing from paragraph (c) “Act—”

e. Amend Alternate II by—

1. Removing from the introductory paragraph “(Mar 2012)” and adding “(Date)” in its place; and

2. Removing from paragraph (c) “Act—”.

The revised text read as follows:

**52.225–3 Buy American—Free Trade Agreements—Israeli Trade Act.**

\* \* \* \* \*

**Buy American—Free Trade Agreements—Israeli Trade Act (Date)**

\* \* \* \* \*

(c) *Delivery of end products.* 41 U.S.C. chapter 83, Buy American, provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for an end product that is a COTS item (See 12.505(a)(1)). In addition the Contracting Officer has determined that FTAs (except the Bahrain, Morocco, Oman, and Peru FTAs) and the Israeli Trade Act apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled “Buy American—Free Trade Agreements—Israeli Trade Act Certificate.” If the Contractor specified in its offer that the Contractor would supply a Free Trade Agreement country end product (other than a Bahrainian, Moroccan, Omani, or Peruvian end product) or an Israeli end product, then the Contractor shall supply a Free Trade Agreement country end product (other than a Bahrainian, Moroccan, Omani, or Peruvian end product), an Israeli end product or, at the Contractor's option, a domestic end product.

\* \* \* \* \*

347. Amend section 52.225–4 by—

a. Revising the section and clause headings;

b. Removing from paragraphs (a), (b) and (c) “American Act—” and adding “American” in their places; and

c. Amend Alternate I by—

1. Removing from the introductory paragraph “(Jan 2004)” and adding “(Date)” in its place;

2. Removing from paragraph (b) “American Act—” and adding “American” in its place;

d. Amending Alternate II by—

1. Removing from the introductory paragraph “(Jan 2004)” and adding “(Date)” in its place; and

2. Removing from paragraph (b) “American Act—” and adding “American” in its place.

The revised text reads as follows:

**52.225–4 Buy American Free Trade Agreements—Israeli Trade Act Certificate.**

\* \* \* \* \*

**Buy American Free Trade Agreements—Israeli Trade Act Certificate (Date)**

\* \* \* \* \*

**52.225–6 [Amended]**

348. Amend section 52.225–6 by—

a. Removing from the provision heading “(Jan 2005)” and adding “(Date)” in its place; and

b. Removing from paragraph (c) “Act” and adding “statute” in its place.

349. Amend section 52.225–7 by—

a. Revising the section and provision headings; and

b. Removing from paragraph (b) “Act” and adding “statute” in its place.

The revised text reads as follows:

**52.225–7 Waiver of Buy American Statute for Civil Aircraft and Related Articles.**

\* \* \* \* \*

**Waiver of Buy American Statute for Civil Aircraft and Related Articles (Date)**

\* \* \* \* \*

350. Amend section 52.225–9 by—

a. Revising the section and clause headings;

b. Removing from paragraph (a) in the definition “Commercially available off-the-shelf (COTS) item”, in paragraph (2) “section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)” and adding “46 U.S.C. 40102(4)” in its place;

c. Revising the introductory text of paragraph (b)(1);

d. Removing from paragraphs (b)(3)(i), (b)(3)(ii), (c), (c)(2), and (c)(3) “Act” and adding “statute” in their places;

The revised text read as follows:

**52.225–9 Buy American—Construction Materials.**

\* \* \* \* \*

**Buy American—Construction Materials (Date)**

\* \* \* \* \*

(b) \* \* \*

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

\* \* \* \* \*

351. Amend section 52.225–10 by—  
a. Revising the section and provision headings;

b. Removing from paragraph (a) “Act—”;

c. Removing from paragraph (b) “Act” and adding “statute” in its place (two times);

d. Removing from the introductory text of paragraph (c) and paragraph (c)(1) “Act” and adding “statute” in their places;

e. Amend Alternate I by—

1. Removing from the introductory paragraph “(May 2002)” and adding “(Date)” in its place; and

2. Removing from paragraph (b) “Act” and adding “statute” in its place;

The revised text reads as follows:

**52.225–10 Notice of Buy American Requirement—Construction Materials.**

\* \* \* \* \*

**Notice of Buy American Requirement—Construction Materials (Date)**

\* \* \* \* \*

352. Amend section 52.225–11 by—  
a. Revising the section and clause headings;

b. Removing from paragraph (a) in the definition “Commercially available off-the-shelf (COTS) item”, in paragraph (2) “section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)” and adding “46 U.S.C. 40102(4)” in its place;

c. Revising paragraph (b)(1);

d. Removing from paragraphs (b)(4)(i) and (b)(4)(ii) “Act” and adding “statute” in its place;

e. Removing from paragraph (c) “Act” and adding “statute” in its place;

f. Removing from paragraph (c)(2) “Act” and adding “statute” in its place;

g. Removing from paragraph (c)(3) “Act” and adding “statute” in its place (two times);

h. Amend Alternate I by—

1. Removing from the introductory paragraph “(Jun 2009)” and adding “(Date)” in its place; and

2. Revising paragraph (b)(1).

The revised text read as follows:

**52.225–11 Buy American—Construction Materials Under Trade Agreements.**

\* \* \* \* \*

**Buy American—Construction Materials Under Trade Agreements (Date)**

\* \* \* \* \*

(b) \* \* \*

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free

Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

\* \* \* \* \*

**Alternate I \* \* \***

\* \* \* \* \*

(b) \* \* \*

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and all the Free Trade Agreements except the Bahrain FTA, NAFTA, and the Oman FTA apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials other than Bahrainian, Mexican, or Omani construction materials.

\* \* \* \* \*

353. Amend section 52.225–12 by—  
a. Revising the section and clause headings;

b. Removing from paragraph (a) “Act”;

c. Removing from paragraph (b) “Buy American Act” and adding “Buy American statute” in its place (two times);

d. Removing from paragraphs (c)(1) the words “Buy American Act” and adding “Buy American statute” in its place; and

e. Amend Alternate I by—

1. Revising the date of Alternate I; and

2. Removing from paragraph (b) “Buy American Act” and adding “Buy American statute” in its place.

The revised text reads as follows:

**52.225–12 Notice of Buy American Requirement—Construction Materials Under Trade Agreements.**

\* \* \* \* \*

**Notice of Buy American Requirement—Construction Materials Under Trade Agreements (Date)**

\* \* \* \* \*

**Alternate I (Date). \* \* \***

\* \* \* \* \*

354. Amend section 52.225–21 by—  
a. Revising the section and clause headings;

b. Removing from paragraph (a) in the definition “Domestic construction material” in paragraph (a)(1) “Act” and adding “statute” in its place;

c. Removing from paragraph (b)(1)(ii) “The Buy American Act (41 U.S.C. 10a–10(d))” and adding “41 U.S.C. chapter 83, Buy American,” in its place;

d. Removing from paragraph (b)(4)(iii) “Act” and adding “statute” in its place;

e. Removing from paragraphs (c) and (c)(2) “Act” and adding “statute” in its place; and

f. Removing from paragraph (c)(3) “Act” and adding “statute” in its place (two times).

The revised text reads as follows:

**52.225–21 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials.**

\* \* \* \* \*

**Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials (Date)**

\* \* \* \* \*

355. Amend section 52.225–22 by—  
a. Revising the section and clause headings;

b. Removing from paragraph (a) “Buy American Act” and adding “Buy American Statute” in its place;

c. Removing from paragraph (b) “American Act” and adding “American Statute” in its place (two times), and removing “inapplicability of 1605” and adding inapplicability of section 1605” in its place;

d. Removing from paragraph (c)(1) “Buy American Act” and adding “Buy American statute” in its place;

e. Amend Alternate I by—

1. Removing from the introductory text “(Mar 2009)” and adding “(Date)” in its place; and

f. Removing from paragraph (b) “Buy American Act” and adding “Buy American statute” in its place.

The revised text reads as follows:

**52.225–22 Notice Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials.**

\* \* \* \* \*

**Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials (Date)**

\* \* \* \* \*

356. Amend section 52.225–23 by—  
a. Revising the section and clause headings;

b. Removing from paragraph (a) in paragraph (1) of the definition “Domestic construction material”, the words “Buy American Act” and adding “Buy American statute” in its place;

c. Removing from paragraphs (b)(1), (b)(1)(ii), (b)(4)(iii), (c) introductory text, (c)(2), and (c)(3) “Buy American Act” and adding “Buy American statute” in their places;

d. Amend Alternate I by—

1. Removing from the introductory text “(Oct 2010)” and adding “(Date)” in its place; and

e. Removing from paragraphs (b)(1) and (b)(1)(ii) the words “Buy American Act” and adding “Buy American statute” in its place.

The revised text reads as follows:

**52.225–23 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials under Trade Agreements.**

\* \* \* \* \*

**Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials Under Trade Agreements (Date)**

\* \* \* \* \*

357. Amend section 52.225–24 by—  
a. Revising the section and provision headings;

b. Removing from paragraphs (a) “American Act” and adding “American statute” in its place;

c. Removing from paragraphs (b) “American Act” and adding “American statute” in its place (two times);

d. Removing from paragraphs (c)(1) “American Act” and adding “American statute” in its place;

e. Amend Alternate I by—

1. Removing from the introductory text “(MAR 2009)” and adding “(DATE)” in its place; and

2. Removing from paragraph (b) “American Act” and adding “American statute” in its place.

The revised text reads as follows:

**52.225–24 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials Under Trade Agreements.**

\* \* \* \* \*

**Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute Construction Materials Under Trade Agreements (Date)**

\* \* \* \* \*

358. Amend section 52.226–6 by—  
a. Revising the date of the clause; and  
b. Removing from paragraph (b) “(Pub. L. 110–247)” and adding “(42 U.S.C. 1792)” in its place.

The revised text reads as follows:

**52.226–6 Promoting Excess Food Donation to Nonprofit Organizations.**

\* \* \* \* \*

**Promoting Excess Food Donation to Nonprofit Organizations (Date)**

\* \* \* \* \*

359. Amend section 52.227–11 by—  
a. Revising the date of the clause; and  
b. Removing from paragraph (k)(4) “Contract Disputes Act” and adding “Contract Disputes statute” in its place.

The revised text reads as follows:

**52.227–11 Patent Rights—Ownership by the Contractor.**

\* \* \* \* \*

**Patent Rights—Ownership by the Contractor (Date)**

\* \* \* \* \*

360. Amend section 52.227–14 by—  
a. Revising the date of the clause;

b. Removing from paragraph (a) in the definition “Technical data” the words “databases (See 41 U.S.C. 403(8))” and adding “databases. (See 41 U.S.C. 116)” in its place; and

c. Removing from the introductory text of paragraph (e)(1) “41 U.S.C. 253d” and adding “41 U.S.C. 4703” in its place.

The revised text reads as follows:

**52.227–14 Rights in Data—General.**

\* \* \* \* \*

**Rights in Data—General (Date)**

\* \* \* \* \*

361. Amend section 52.227–20 by revising the date of the clause; and removing from paragraph (a), in the definition “Technical data” the words “41 U.S.C. 403(8)” and adding “41 U.S.C. 116” in its place. The revised text is as follows:

**52.227–20 Rights in Data—SBIR Program.**

\* \* \* \* \*

**Rights in Data—SBIR Program (Date)**

\* \* \* \* \*

362. Amend section 52.227–21 by revising the date of the clause; and by removing from paragraph (a) “41 U.S.C. 418a(d)(7)” and adding “41 U.S.C. 2302(e)(7)” in its place. The revised text reads as follows:

**52.227–21 Technical Data Declaration, Revision, and Withholding of Payment—Major Systems.**

\* \* \* \* \*

**Technical Data Declaration, Revision, and Withholding of Payment—Major System (Date)**

\* \* \* \* \*

363. Amend section 52.228–12 by revising the date of the clause and the clause to read as follows:

**52.228–12 Prospective Subcontractor Requests for Bonds.**

\* \* \* \* \*

**Prospective Subcontractor Requests for Bonds (Date)**

In accordance with Section 806(a)(3) of Pub. L. 102–190, as amended by Sections 2091 and 8105 of Pub. L. 103–355 (10 U.S.C. 2302 note), upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of this contract for which a payment bond has been furnished to the Government pursuant to 40 U.S.C. chapter 31, subchapter III, Bonds, the Contractor shall promptly provide a copy of such payment bond to the requester.

(End of clause)

364. Amend section 52.228–14 by revising the date of the clause; and removing from paragraphs (c)(2)(i) and

(c)(2)(ii) “the Miller Act” and adding “40 U.S.C. chapter 31, subchapter III, Bonds” in its place. The revised text reads as follows:

**52.228–14 Irrevocable Letter of Credit.**

\* \* \* \* \*

**Irrevocable Letter of Credit (Date)**

\* \* \* \* \*

365. Amend section 52.230–2 by revising the date of the clause; and removing from paragraph (b) “the Contract Disputes Act (41 U.S.C. 601)” and adding “41 U.S.C. chapter 71, Contract Disputes” in its place. The revised text reads as follows:

**52.230–2 Cost Accounting Practices.**

\* \* \* \* \*

**Cost Accounting Practices (Date)**

\* \* \* \* \*

366. Amend section 52.230–3 by revising the date of the clause; and removing from paragraph (b) “the Contract Disputes Act (41 U.S.C. 601)” and adding “41 U.S.C. chapter 71, Contract Disputes” in its place. The revised text reads as follows:

**52.230–3 Disclosure and Consistency of Cost Accounting Practices.**

\* \* \* \* \*

**Disclosure and Consistency of Cost Accounting Practices (Date)**

\* \* \* \* \*

367. Amend section 52.230–4 by revising the date of the clause; and removing from paragraph (b) “the Contract Disputes Act (41 U.S.C. 601)” and adding “41 U.S.C. chapter 71, Contract Disputes” in its place. The revised text reads as follows:

**52.230–4 Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns.**

\* \* \* \* \*

**Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns (Date)**

\* \* \* \* \*

368. Amend section 52.230–5 by revising the date of the clause; and removing from paragraph (b) “the Contract Disputes Act (41 U.S.C. 601)” and adding “41 U.S.C. chapter 71, Contract Disputes” in its place. The revised text reads as follows:

**52.230–5 Cost Accounting Standards—Educational Institutions.**

\* \* \* \* \*

**Cost Accounting Standards—Educational Institutions (Date)**

\* \* \* \* \*

369. Amend section 52.232–5 by revising the date of the clause; and

removing from paragraph (h)(3) “41 U.S.C. 15” and adding “41 U.S.C. 6305” in its place. The revised text reads as follows:

**52.232–5 Payments Under Fixed-Price Construction Contracts.**

\* \* \* \* \*

**Payments Under Fixed-Price Construction Contracts (Date)**

\* \* \* \* \*

370. Amend section 52.232–17 by revising the date of the clause; and removing from paragraph (a) “Section 611 of the Contract Disputes Act of 1978 (Public L. 95–563)” and adding “41 U.S.C. 7109” in its place. The revised text reads as follows: *52.232–17 Interest.*

\* \* \* \* \*

**Interest (Date)**

\* \* \* \* \*

371. Amend section 52.232–23 by revising the date of the clause; and removing from paragraph (a) “41 U.S.C. 15” and adding “41 U.S.C. 6305” in its place. The revised text reads as follows:

**§ 52.232–23 Assignment of Claims.**

\* \* \* \* \*

**Assignment of Claims (Date)**

\* \* \* \* \*

372. Amend section 52.232–24 by revising the date of the clause and the clause to read as follows:

**§ 52.232–24 Prohibition of Assignment of Claims.**

\* \* \* \* \*

**Prohibition of Assignment of Claims (Date)**

The assignment of claims under the Assignment of Claims Act of 1940 (31 U.S.C. 3727, 41 U.S.C. 6305) is prohibited for this contract.

(End of clause)

373. Amend section 52.232–27 by—  
a. Revising the date of the clause;  
b. Removing from paragraphs (c)(2)(ii) and (e)(4)(ii) “section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611)” and adding “41 U.S.C. 7109” in its place;

c. Removing from paragraph (f)(1) “the Miller Act (40 U.S.C. 3133)” and adding “40 U.S.C. 3133” in its place; and

d. Removing from paragraph (f)(2)(ii) “section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611)” and adding “41 U.S.C. 7109” in its place.

The revised text reads as follows:

**§ 52.232–27 Prompt Payment for Construction Contracts.**

\* \* \* \* \*

**Prompt Payment for Construction Contracts (Date)**

\* \* \* \* \*

374. Amend section 52.232–31 by revising the date of the clause; and removing from paragraph (c) “41 U.S.C. 255(f)” and adding “41 U.S.C. 4505” in its place. The revised text reads as follows:

**§ 52.232–31 Invitation to Propose Financing Terms.**

\* \* \* \* \*

**Invitation To Propose Financing Terms (Date)**

\* \* \* \* \*

375. Amend section 52.232–36 by revising the date of the clause; and removing from paragraph (e) “, as amended, 31 U.S.C. 3727, 41 U.S.C. 15” and adding “(31 U.S.C. 3727, 41 U.S.C. 6305)” in its place. The revised text reads as follows:

**52.232–36 Payment by Third Party.**

\* \* \* \* \*

**Payment by Third Party (Date)**

\* \* \* \* \*

376. Amend section 52.233–1 by—  
a. Revising the date of the clause and paragraph (a);  
b. Removing from paragraph (b) “the Act” and adding “chapter 71” in its place;  
c. Removing from paragraph (c) “the Act” and adding “chapter 71” in its place (three times);  
d. Removing from paragraphs (d)(2)(iii) and (d)(3) “duly”; and  
e. Removing from paragraph (f) “the Act” and adding “chapter 71” in its place.

The revised text reads as follows:

**52.233–1 Disputes.**

\* \* \* \* \*

**Disputes (Date)**

(a) This contract is subject to 41 U.S.C. chapter 71, Contract Disputes.

\* \* \* \* \*

377. Amend section 52.234–4 by revising the date of the clause; and removing from paragraph (f) “a duly” and adding “an” in its place. The revised text reads as follows:

**52.234–4 Earned Value Management System.**

\* \* \* \* \*

**Earned Value Management System (Date)**

\* \* \* \* \*

378. Amend section 52.237–9 by revising the date of the clause; and removing from paragraph (a) “41 U.S.C. 256(c)(2)(A)” and adding “41 U.S.C. 4304(b)(1)” in its place. The revised text reads as follows:

**52.247–9 Waiver of Limitation on Severance Payment to Foreign Nationals.**

\* \* \* \* \*

**Waiver of Limitation on Severance Payments to Foreign Nationals (Date)**

\* \* \* \* \*

379. Amend section 52.242–3 by—  
a. Revising the date of the clause;  
b. Removing from paragraph (b) “41 U.S.C. 256” and adding “41 U.S.C. chapter 43” in its place; and  
c. Removing from paragraph (f) “the Contract Disputes Act of 1978 (41 U.S.C. 601, *et seq.*)” and adding “chapter 71, Contract Disputes” in its place.

The revised text reads as follows:

**52.242–3 Penalties for Unallowable Costs.**

\* \* \* \* \*

**Penalties for Unallowable Costs (Date)**

\* \* \* \* \*

380. Amend section 52.244–6 by—  
a. Revising the date of the clause;  
b. Removing from paragraph (c)(1)(i) “(Pub. L. 110–252, Title VI, Chapter 1 (41 U.S.C. 251 note))” and adding “(41 U.S.C. 3509)” in its place; and  
c. Removing from paragraph (c)(1)(iii) “(DEC 2010)” and adding “(DATE)” in its place.

The revised text reads as follows:

**52.244–6 Subcontracts for Commercial Items.**

\* \* \* \* \*

**Subcontracts for Commercial Items (Date)**

\* \* \* \* \*

**PART 53—FORMS**

**53.214 [Amended]**

375. Amend section 53.214 by removing from paragraph (a) “(Rev. 5/2011)” and adding “(Rev. 3/2012)” in its place.

376. Amend section 53.222 by—  
a. Revising paragraph (c);  
b. Removing from paragraph (d) “Act” and adding “Statute” in its place; and revising paragraphs (e), (f), and (h) to read as follows:

**53.222 Application of labor laws to Government acquisitions (SF’s 308, 1093, 1413, 1444, 1445, 1446, WH–347).**

\* \* \* \* \*

(c) *SF 308 (DOL) (Rev. 1/2012), Request for Wage Determination and Response to Request.* (See 22.404–3(a) and (b).)

(d) *SF 1093 (Rev. 5/2012), Schedule of Withholdings Under the Construction Wage Rate Requirements Statute (40 U.S.C. Chapter 31, Subchapter IV, § 3144) and/or the Contract Work Hours and Safety Standards Statute (40 U.S.C. Chapter 37, § 3703).*

(e) *SF 1413 (Rev. 2/2012), Statement and Acknowledgment.* SF 1413 is prescribed for use in obtaining contractor acknowledgment of inclusion of required clauses in subcontracts, as specified in 22.406–5.

(f) *Form SF 1444 (Rev. 2/2012), Request for Authorization of Additional Classification and Rate.* (See 22.406–3(a) and 22.1019.)

\* \* \* \* \*

(h) *SF 1446 (Rev. 4/2012), Labor Standards Investigation Summary Sheet.* (See 22.406–8(d).)

\* \* \* \* \*

#### **53.228 [Amended]**

377. Amend section 53.228 by—

a. Removing from paragraph (b) “(Rev. 5/96)” and adding “(Rev. 2/2012)” in its place;

b. Removing from paragraph (c) “(Rev. 10/98)” and adding “(Rev. 2/2012)” in its place; and

c. Removing from paragraphs (h) and (i) “(Rev. 10/98)” and “Miller Act” and adding “Bond Statute” and “(Rev. 2/2012)” in its place, respectively.

#### **53.236–2 [Amended]**

378. Amend section 53.236–2 by removing from paragraph (b) “(6/04)” and adding “(Rev. 2/2012)” in its place.

378. Revise section 53.301–25 to read as follows:

#### **53.301–25 Performance Bond.**

*[Insert SF 25 here.]*

379. Revise section 53.301–25A to read as follows:

#### **53.301–25A Payment Bond.**

*[Insert SF 25A here.]*

380. Revise section 53.301–26 to read as follows:

#### **53.301–26 Award/Contract.**

*[Insert SF 26 here.]*

381. Revise section 53.301–273 to read as follows:

#### **53.301–273 Reinsurance Agreement for a Bonds Statute Performance Bond.**

*[Insert SF 273 here.]*

382. Revise section 53.301–274 to read as follows:

#### **53.301–274 Reinsurance Agreement for a Bonds Statute Payment Bond.**

*[Insert SF 274 here.]*

383. Revise section 53.301–308 to read as follows:

#### **53.301–308 Request for Wage Determination and Response To Request.**

*[Insert SF 308 here.]*

384. Revise section 53.301–330 to read as follows:

#### **53.301–330 Architect-Engineer Qualifications.**

*[Insert SF 330 here.]*

385. Revise section 53.301–1093 to read as follows:

#### **53.301–1093 Schedule of Withholdings Under the Construction Wage Rate Requirements Statute (40 U.S.C. Chapter 31, Subchapter IV, § 3144) and/or the Contract Work Hours and Safety Standards Statute (40 U.S.C. Chapter 37, § 3703).**

*[Insert SF 1093 here.]*

386. Revise section 53.301–1413 to read as follows:

#### **53.301–1413 Statement and Acknowledgement.**

*[Insert SF 1413 here.]*

387. Revise section 53.301–1444 to read as follows:

#### **53.301–1444 Request for Authorization of Additional Classification and Rate.**

*[Insert SF 1444 here.]*

388. Revise section 53.301–1446 to read as follows:

#### **53.301–1446 Labor Standards Investigation Summary Sheet.**

*[Insert SF 1446 here.]*

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