

PRIME CONTRACT REQUIREMENTS

A. The following clauses of the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable during the performance of this Contract. The full text of a clause may be accessed electronically at the following address: <http://www.arnet.gov/far>

1. FAR FLOWDOWN CLAUSES

<u>Clause Number</u>	<u>Title/Applicability</u>
52.222-39	NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (Dec 2004)
52.227-1	AUTHORIZATION AND CONSENT (JUL 1995) ALTERNATE I (APR 1984)(Applicable if this Contract is for research and development work. This clause with Alternate I is in lieu of the basic clause identified in the applicable CorpDoc.)
52.228-4	WORKERS' COMPENSATION AND WAR-HAZARD INSURANCE OVERSEAS (APR 1984) (CONTRACTOR shall provide such insurance and benefits as specified in this clause and shall notify LOCKHEED MARTIN within 30 days of receipt of any employee's claim under it. CONTRACTOR shall indemnify and hold harmless LOCKHEED MARTIN, its officers, employees and agents, from any losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees, all expenses of litigation and/or settlement, and court costs, by reason of any act, failure to act, or failure to comply with this clause by CONTRACTOR, its officers, employees, agents, suppliers or subcontractors.)
52.232-16	PROGRESS PAYMENTS (APR 2003) (Note 2 applies except in paragraph (g) where it means "Lockheed Martin or Contracting Officer." Note 1 applies except: (1) in paragraphs (d), (e) and (j)(5) where the term is unchanged and (2) in paragraphs (g) and (i) where it means "Lockheed Martin and the Government.")
52.232-17	INTEREST (JUN 1996) (Note 1 applies.)
52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS (APR 2003)
52.245-19	GOVERNMENT PROPERTY FURNISHED "AS IS" (APR 1984) (Applicable if this Contract involves Government Furnished Property which is provided in an "as is" condition. Note 1 applies [except in the contexts "Government Property" or "Title of the Government"] and Note 2 applies.)
52.246-7	INSPECTION OF RESEARCH AND DEVELOPMENT-FIXED PRICE (AUG 1996) (Note 3 applies in paragraphs (a), (b) and (c). Note 1 applies in paragraphs (d), (e), and (f). Note 2 applies.)
52.246-8	INSPECTION OF RESEARCH AND DEVELOPMENT COST REIMBURSEMENT (MAY 2001) (Note 1 applies except in paragraph (k) and in paragraphs (b), (c) and (d) where Note 3 applies.)
52.247-58	LOADING, BLOCKING, AND BRACING OF FREIGHT CAR SHIPMENT (APR 1984)(Applicable if supplies may be shipped in carload lots by rail.)

2. DFARS FLOWDOWN CLAUSES

<u>Clause Number</u>	<u>Title/Applicability</u>
252.225-7001	BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM (APR 2003)
252.225-7012	PERFERENCE FOR CERTAIN DOMESTIC COMMODITIES (FEB 2003)
252.225-7025	RESTRICTION ON ACQUISITION OF FORGINGS (APR 2003) (Applicable if this Contract is for products that contain restricted forging items. Note 5 applies.)
252.235-7003	FREQUENCY AUTHORIZATION (DEC 1991) ALTERNATE I (DEC 1991) (Applicable if this Contract requires the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required. Note 2 applies.)
252.247-7023	TRANSPORTATION OF SUPPLIES BY SEA (MAY 2002) (In the first sentence of paragraph (g), insert a period after "Contractor" and delete the balance of the sentence. Paragraphs (f) and (g) shall not apply if this Contract is at or below \$100,000. Notes 1 and 2 apply, except for paragraph (c) of the clause which shall retain its original meaning; Note 5 applies to paragraph (c). This clause and parenthetical are in lieu of the same clause identified in the applicable CorpDoc.)

NOTES

1. Substitute "LOCKHEED MARTIN" for "Government" or "United States" as applicable throughout this clause.
2. Substitute "LOCKHEED MARTIN Procurement Representative" for "Contracting Officer", "Administrative Contracting Officer" and "ACO" throughout this clause.
3. Insert "and LOCKHEED MARTIN" after "Government" or "Contracting Officer", as appropriate, throughout this clause.
4. Insert "or LOCKHEED MARTIN" after "Government" throughout this clause.
5. Communication/notification required under this clause from/to the CONTRACTOR to/from the Contracting Officer shall be through LOCKHEED MARTIN.

B. The following additional provisions apply to this Contract:

1) PUBLIC RELEASE OF INFORMATION

(This provision is in lieu of the "Release of Information" provision in the applicable CorpDoc)

All public information materials prepared by Contractor shall be submitted to Missile Defense Agency (MDA), through the Lockheed Martin Procurement Representative, for clearance prior to release. These materials include, but are not limited to, technical papers and responses to news queries that relate to Contractor's work under this contract. However, once work has been cleared for public release, it need not be cleared again for later use. The information shall be used in its originally cleared context.

Contractor shall submit the material proposed for release to the cognizant Lockheed Martin Procurement Representative via a letter of transmittal setting forth: 1) to whom the material is to be released; 2) the desired date for public release; 3) a statement that the material has been approved by officials of the Contractor for public release; 4) the contract number and prime contract number. Three copies of each item, including written material, photographs, drawings, "dummy layouts" and the like shall be submitted at least eight (8) weeks in advance of the proposed release date. The items submitted must be complete. Photographs shall have captions. Abbreviated materials or abstracts may be submitted if the intent is to determine the feasibility of going further in preparing a complete paper for clearance. However, final approval for release or disclosure of the material cannot be given on the basis of abstracts. Outlines or rough drafts will not be cleared.

2) ORGANIZATIONAL CONFLICT OF INTEREST (OCI)

a. Purpose: The primary purpose of this clause is to aid in ensuring that:

- (1) the Contractor does not find itself in a conflicting role that will bias its judgment because of its present, or currently planned interests (financial, contractual, organizational, or otherwise) which relate to work under this contract;
- (2) the Contractor does not obtain an unfair competitive advantage by virtue of its access to non-public information regarding the Government's program plans and actual or anticipated resources;
- (3) the Contractor does not obtain any unfair competitive advantage by virtue of its access to proprietary information belonging to others.

b. Scope: The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as "Contractor") in the activities covered by this clause as Contractor, subcontractor, co-sponsor, joint venture, consultant, or in any similar capacity. The term "proprietary information" for purposes of this clause is any information considered so valuable by its owners that it is held secret by them and their licensees. Information furnished voluntarily by the owner without limitations on its use, or which is available without restrictions from other sources, is not considered proprietary.

1. Access To & Use Of Government Information. If in the performance of this Contract, Contractor obtains access to information such as plans, policies, reports, studies, financial plans, or data which has not been released or otherwise made available to the public, Contractor agrees that, without prior written approval of Lockheed Martin, it shall not: (a) use such information for any private purpose unless the information has been released or otherwise made available to the public, (b) compete for work, other than a possible follow-on to the Targets contract, based on such information, until such information is released or otherwise made available to the public, (c) submit an unsolicited proposal to the Government which is based on such information until after such information is released or otherwise made available to the public, or (d) release such information, unless such information has previously been released or otherwise made available to the public by the Government.

2. Certification Restriction: The Contractor will provide data to support but will not perform final accreditation or certification of any products developed or delivered under this Contract. Additionally the Contractor shall not serve as a software independent validation and verification (IV&V) Contractor for any software developed or delivered under this Contract.

3. Access To & Protection Of Proprietary Information: Contractor agrees that, to the extent it receives or is given access to proprietary data, trade secrets, or other confidential or privileged technical, business, or financial information (hereinafter referred to as "proprietary data") under this Contract, it shall treat such information in accordance with any restrictions imposed on such information. Contractor further agrees to enter into a written agreement for the protection of the proprietary data of others and to exercise diligent effort to protect such proprietary data from unauthorized use or disclosure. In addition, Contractor shall obtain from each employee who has access to proprietary data under this Contract, a written agreement which shall in substance provide that such employee shall not, during his/her employment by the Contractor or thereafter, disclose to others or use for their benefit, proprietary data received in connection with the work under this Contract. Contractor will educate its employees regarding the philosophy of Part 9.505-4 of the Federal Acquisition Regulation so that they will not use or disclose proprietary information or data generated or acquired in the performance of this Contract except as provided herein.

4. Subcontracts: The Contractor shall include this or substantially the same clause, including this paragraph, in consulting agreements and subcontracts at all tiers. The terms "Contract", "Contractor", and "Contracting Officer" will be appropriately modified to preserve the Government's rights.

2) ORGANIZATIONAL CONFLICT OF INTEREST (OCI) (CON'T)

5. Disclosures. If Contractor discovers an organizational conflict of interest or potential conflict of interest after award, a prompt and full disclosure shall be made in writing to Lockheed Martin. This disclosure shall include a description of the action the Contractor has taken or proposes to take in order to avoid or mitigate such conflicts.

6. Remedies & Waiver.

(a) For breach of any of the above restrictions or for non-disclosure or misrepresentation of any relevant facts required to be disclosed concerning this contract, Lockheed Martin may terminate this Contract for default, disqualify Contractor for subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this Contract. If, however, in compliance with this clause, the Contractor discovers and promptly reports an actual or potential organizational conflict of interest subsequent to award of the contract, Lockheed Martin may terminate this Contract for convenience if such termination is determined to be in Lockheed Martin's best interest.

(b) The Parties recognizes that this clause has potential effects which will survive performance of this Contract and that it is impossible to foresee each circumstance to which it might be applied in the future. Accordingly, Contractor may at any time seek a waiver from the Director, MDA, through the cognizant Lockheed Martin Acquisition Representative, by submitting a full written description of requested waiver and reasons in support thereof.

7. Modifications. Prior to contract modification, when the statement of work is changed to add new work or the period of performance is significantly increased, Lockheed Martin may require Contractor to submit to the Government, through Lockheed Martin, either an organizational conflict of interest disclosure or an update of the previously submitted disclosure or representation.

3) **ENABLING CLAUSE FOR BMD INTERFACE SUPPORT**

1. Its is anticipated that, during the performance of this Contract, the Contractor will be required to interface with other MDA Contractors and other Government agencies. Appropriate organizational conflict of interest clauses will be negotiated as needed to protect the rights of the Contractor, Lockheed Martin and the Government.

2. Interface support deals with activities associated with the integration of the requirements of this Contract into Missile Defense Agency plans and the support of the key MDA program reviews.

3. The Contractor agrees to cooperate with the MDA Contractors by providing access to technical matters, provided, however, the Contractor will not be required to provide proprietary information to non-Government entities or personnel in the absence of a non-disclosure agreement between the Contractor and such entities.

4. The Contractor further agrees to include a clause in each subcontract requiring compliance with the response and access provisions of paragraph 3. above, subject to coordination with the Contractor. This agreement does not relieve the Contractor of its responsibility to manage its subcontract effectively, nor is it intended to establish privity of contract between the Government and such subcontractors.

5. Personnel from MDA Contractors or other Government agencies or Contractors are not authorized to direct the Contractor in any manner. The Contractor agrees to accept technical direction as follows: Whenever it becomes necessary to modify the contract and redirect the effort, a change order signed by the Lockheed Martin Procurement Representative or a supplemental agreement signed by both the Lockheed Martin Procurement Representative and the Contractor, will be issued.

6. This clause shall not prejudice the Contractor or its subcontractors from negotiating separate organizational conflict of interest agreements with MDA Contractors; however, these agreements shall not restrict any of the Government's rights established pursuant to this Contract.

4) **SECURITY REQUIREMENTS**

(Applicable if this Contract involves access to, or procurement or release of, classified information.)

1. The Contractor shall follow the security requirements and classification guidance in the DD Form 254, "Contract Security Classification Specification" incorporated as an Exhibit to this Contract. During the period of performance of this Contract, the Contractor is required to maintain a Department of Defense facility clearance at the appropriate classification level, including any required access certifications.

2. At the conclusion of this Contract's period of performance, the Contractor is required to dispose of all classified information received or generated in support of the Contract in accordance with the National Industrial Security Program Operating Manual (DoD 5220.22-M).

5) **TRAVEL**

Costs for travel, subsistence, and lodging shall be reimbursed to the Contractor only to the extent that it is necessary for performance of the services under this Contract. Only per diem that does not exceed the maximum rates set forth in the following shall be considered to be reasonable and allowable:

a. Federal Travel Regulations (in effect at the time of travel) prescribed by the General Services Administration for travel in the contiguous 48 United States;

b. Joint Travel Regulations Volume 2, DoD Civilian Personnel, Appendix A, prescribed by the Department of Defense for travel in Alaska, Hawaii, The Commonwealth of Puerto Rico, and the territories and possessions of the United States;

c. Standardized Regulations, (Government Civilians, Foreign Areas), Section 925, "Maximum Travel Per Diem Allowances in Foreign Areas" prescribed by the Department of State, for travel in areas not covered in (a) and (b) above.

5)

TRAVEL (CON'T)

The application of the rates described above would not constitute a reasonable charge (1) when no lodging costs are incurred; (2) more than one person/employee uses the same room for lodging; and/or (3) on partial travel days (e.g., day of departure and return). Appropriate downward adjustments from the maximum per diem rates shall be required under these circumstances. Fractional parts of a day shall be payable on a prorated basis for purposes of billing for per diem charges attributed to subsistence on days of travel. Fractional billing shall be on a 1/4, 1/2, and 3/4 basis.

Reimbursement to the Contractor for per diem shall be limited to payments to employees for authorized per diem, as described above, not to exceed the authorized per diem. The Contractor shall retain supporting documentation for per diem paid to employees as evidence of actual payments, as required by the "Allowable Cost and Payment" clause of the contract.

The Contractor shall not be paid for travel for contractor personnel who reside in the area in which the services are being performed. Travel shall not be paid for services performed at the Contractor's home facility or at any location within a 50 mile driving radius of the Contractor's home facility.

The contractor agrees, in the performance of necessary travel, to use the lowest cost mode commensurate with the requirements of the mission. When it is necessary to use air or rail travel, the Contractor agrees to use coach, tourist class or similar accommodations to the extent consistent with the successful and economical accomplishment of the mission for which the travel is being performed. Documentation must be provided to substantiate non-availability of coach or tourist class.

Any travel or associated travel costs appearing to be unreasonable, or reflective of an unfavorable trend may be challenged by the Lockheed Martin Procurement Representative. Accordingly, the Contractor may be required to submit additional information or cost-effectiveness analysis in accordance with contract clauses 52.242-1, Notice of Intent to Disallow Cost and FAR 52.216-7, Allowable Cost and Payment.