

Additional Terms & Conditions (Flowdowns) for Federal Contracts and Grants

The federal government provides support for projects under which the University of Minnesota purchases goods or services through one of three means: (a) through federal procurement "contracts" subject to the Federal Acquisition Regulation, (b) through federal "grants" subject to OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance"), and (c) through "cooperative agreements," which may include items from the FAR or from OMB Uniform Guidance or both the FAR and OMB Uniform Guidance.

I. Flowdown clauses for contracts and for cooperative agreements to the extent the cooperative agreement includes the specific clause.

The following Government Contract Articles, when applicable, are hereby incorporated into this transaction by reference with the same force and effect as if set forth in full text. Clauses and References are to the Federal Acquisition Regulation available at <http://www.acquisition.gov/FAR/> by reference. The clauses that govern a particular federal contract are those in effect at the time the federal contract is awarded to the University. Note: The University will not negotiate these clauses. If a clause is not applicable or is not required by the prime contract to be flowed down to a particular subcontract, it will not be applied.

For purposes of this Purchase Order in the following clauses, the term "contract" shall mean this Purchase Order; the term "Contractor" shall mean Seller; and the terms "Government" and "Contracting Officer" may mean the University or the United States Government depending on the context in which such term is used.

Clauses Which Apply Regardless of Dollar Amount of Subcontract:			
Clause	Title	Reference	Applicability/Remarks
52.222-3	Convict Labor (JUNE 2003)	22.202	
52.225-13	Restrictions on Certain Foreign Purchases (JUNE 2008)	25.1103(a)	
52.247-63	Preference for U.S.-Flag Air Carriers (JUNE 2003)	47.405	
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006)	47.507(a)	Relates to transportation by ocean vessel.

Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$3,000:			
Clause	Title	Reference	Applicability/Remarks
52.222-54	Employment Eligibility Verification (AUG 2013)	22.1803	When subcontract is for commercial or noncommercial services or construction and is performed in U.S.

Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$3,500 (the Micro Purchase Threshold):			
Clause	Title	Reference	Applicability/Remarks
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)	23.1105	

Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$10,000:			
Clause	Title	Reference	Applicability/Remarks
52.222-26	Equal Opportunity (APR 2015)	22.810(e)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended.

52.222-27	Affirmative Action Compliance Requirements for Construction (APR 2015)	22.810(f)	If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade.
52.222-40	Notification of Employee Rights Under the National Labor Relations Act (DEC 2010)	22.1605	

<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$15,000:</u>			
Clause	Title	Reference	Applicability/Remarks
52.222-20	Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (MAY 2014)	22.610	
52.222-36	Equal Opportunity for Workers with Disabilities (JULY 2014)	22.1408(a)	

<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$25,000:</u>			
Clause	Title	Reference	Applicability/Remarks
52.226-6	Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014)	26.404	All subcontractors or suppliers, at any tier, who will perform, under this contract, the provision, service, or sale of food in the U.S.

<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$35,000:</u>			
Clause	Title	Reference	Applicability/Remarks
52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (AUG 2013)	9.409	When subcontract is not for commercially available off-the-shelf items.

<u>Additional Clauses Required in Subcontracts/Purchase Orders At or Exceeding \$65,000:</u>			
Clause	Title	Reference	Applicability/Remarks
52.248-3	Value Engineering—Construction (OCT 2010)	48.202	Optional under \$65,000. Required at or over \$65,000.

<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$100,000:</u>			
Clause	Title	Reference	Applicability/Remarks
52.222-35	Equal Opportunity for Veterans (JULY 2014)	22.1310(a)(1)	
52.222-37	Employment Reports on Veterans (JULY 2014)	22.1310(b)	

<u>Additional Clauses Required in Subcontracts/Purchase Orders At or Exceeding \$150,000:</u>			
Clause	Title	Reference	Applicability/Remarks
52.248-1	Value Engineering (OCT 2010)	48.201	Optional under \$150,000. Required at or over \$150,000.

Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$150,000 (the Simplified Acquisition Threshold):			
Clause	Title	Reference	Applicability/Remarks
52.203-6	Restrictions on Subcontractor Sales to the Government (SEP 2006)	3.503-2	
52.203-7	Anti-Kickback Procedures (MAY 2014)	3.502-3	Except subparagraph (c)(1).
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (OCT 2010)	3.808(b)	
52.203-16	Preventing Personal Conflicts of Interest (DEC 2011)	3.1106	Subcontractor employees perform acquisition functions closely associated with inherently governmental functions (i.e., instead of performance only by a self-employed individual).
52.203-17	Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights (APR 2014)	3.908-9	
52.215-2	Audit and Records—Negotiation (OCT 2010)	15.209(b)(1)	For cost-reimbursement, time-and-material, labor-hour, or price-redeterminable types of subcontracts or any combination OR Subcontracts for which certified cost or pricing data are required OR Subcontracts that require the subcontractor to furnish reports as discussed in paragraph (e).
52.215-14	Integrity of Unit Prices (OCT 2010)	15.408(f)(1)	Except paragraph (b). Not for construction or architect-engineer services, utility services, services where supplies are not required, commercial items, or petroleum products.
52.215-23	Limitations on Pass-Through Charges (OCT 2009)	15.408(n)(2)	All cost-reimbursement Subcontracts. If contract is with DoD, all cost-reimbursement subcontracts and fixed price Subcontracts over \$750,000.
52.222-17	Nondisplacement of Qualified Workers (MAY 2014)	22.1207	Subcontracts for services. Paragraphs (b)-(c) with respect to employees of contractor or subcontractors, (d)-(e) with respect to information for contractor, and (f) with respect to recordkeeping.
52.227-1	Authorization and Consent (DEC 2007)	27.201-2(a)(1)	
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (DEC 2007)	27.201-2(b)	

<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$500,000:</u>			
Clause	Title	Reference	Applicability/Remarks
52.222-50	Combating Trafficking in Persons (MAR 2015)	22.1705(a)(1)	Paragraph (h) only applies to portion for supplies acquired outside U.S. or services performed outside U.S.

<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$700,000:</u>			
Clause	Title	Reference	Applicability/Remarks
52.219-9	Small Business Subcontracting Plan (OCT 2014)	19.708(b)	If clause is in prime and subcontract offers further subcontracting opportunities Not required if subcontractor is a small business concern.
52.219-16	Liquidated Damages—Subcontracting Plan (JAN 1999)	19.708(b)(2)	Subcontracts containing the clause FAR 52.219-9, Small Business Subcontracting Plan.

<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$750,000:</u>			
Clause	Title	Reference	Applicability/Remarks
52.214-26	Audit and Records—Sealed Bidding (OCT 2010)	14.201-7(a)(1)	
52.214-28	Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding (OCT 2010)	14.201-7(c)	
52.215-12	Subcontractor Certified Cost or Pricing Data (OCT 2010)	15.408(d)	If paragraph (a) requires submission of certified cost or pricing data for the subcontract, or can insert 52.215-13.
52.215-13	Subcontractor Certified Cost or Pricing Data—Modifications (OCT 2010)	15.408(e)	Subcontract must exceed \$700,000 on date of agreement of price or date of award, whichever is later.
52.215-15	Pension Adjustments and Asset Reversions (OCT 2010)	15.408(g)	
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (JULY 2005)	15.408(j)	
52.215-19	Notification of Ownership Changes (OCT 1997)		
52.230-2	Cost Accounting Standards (MAY 2014)	30.201-4(a)	Paragraph (b) does not apply. For all negotiated subcontracts (unless exempt under 48 CFR 9903.201-1) and all other subcontracts including the obligation to comply with all CAS.
52.230-3	Disclosure and Consistency of Cost Accounting Practices (MAY 2014)	30.201-4(b)(1)	Paragraph (b) does not apply. For all negotiated subcontracts (unless exempt under 48 CFR 9903.201-1) and all other subcontracts.
52.230-5	Cost Accounting Standards—Educational Institution (MAY 2014)	30.201-4(e)	Paragraph (b) does not apply. For all negotiated subcontracts

			(unless exempt under 48 CFR 9903.201-1) and all other subcontracts including the obligation to comply with all CAS.
52.230-6	Administration of Cost Accounting Standards (JUNE 2010)	30.201-4(d)(1)	For all negotiated subcontracts subject to the clauses at FAR 52.230-2, 52.230-3, 52.230-4, or 52.230-5.

<u>Additional Clauses Required in Subcontracts/Purchase Orders Exceeding \$5,000,000:</u>			
Clause	Title	Reference	Applicability/Remarks
52.203-13	Contractor Code of Business Ethics and Conduct (APR 2010)	3.1004(a)	Subcontracts with performance period of more than 120 days.
52.203-14	Display of Hotline Poster(s) (DEC 2007)	3.1004(b)	Except when performed entirely outside U.S.

<u>Clauses Which Apply Under Other Specific Conditions:</u>			
Clause	Title	Reference	Applicability/Remarks
52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUNE 2009)	3.907-7	All subcontracts funded in whole or in part with Recovery Act funds.
52.204-2	Security Requirements (AUG 1996)	4.404(a)	If subcontract involves access to classified information.
52.204-9	Personal Identity Verification of Contractor Personnel (JAN 2011)	4.1313	If subcontractor's employees will have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system.
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (OCT 2015)	4.1403(a)	Involves obligations of prime contractor to report subcontract and subcontractor information.
52.208-8	Required Sources for Helium and Helium Usage Data (APR 2014)	8.505	All subcontracts involving a major helium requirement.
52.211-15	Defense Priority and Allocation Requirements (APR 2008)	11.604(b)	Requirements of the rated order are flowed down to subcontractors.
52.215-15	Pension Adjustments and Asset Reversions (OCT 2010)	15.408(g)	All subcontracts under that meet the applicability requirement of FAR 15.408(g).
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (JULY 2015)	15.408(j)	All subcontracts that meet the applicability requirements of FAR 15.408(j).
52.215-19	Notification of Ownership Changes (OCT 1997)	15.408(k)	All subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).
52.219-8	Utilization of Small Business Concerns (OCT 2014)	19.708(a)	Clause is required if prime contains clause FAR 52.219-9 Small Business Subcontracting Plan requirement and the

			subcontract offers further subcontracting opportunities.
52.222-4	Contract Work Hours and Safety Standards Act—Overtime Compensation (MAY 2014)	22.305	All subcontracts which involve laborers or mechanics.
52.222-21	Prohibition of Segregated Facilities (APR 2015)	22.810(a)(1)	If subcontract or purchase order is subject to FAR 52.222-26 Equal Opportunity Clause.
52.222-34	Project Labor Agreement (MAY 2010)	22.505(b)(1)	When subcontractor is engaged in construction on the construction project.
52.222-41	Service Contract Labor Standards (MAY 2014)	22.1006(a)	All subcontracts that are subject to the Service Contract Labor Standards statute (41 U.S.C. chapter 67).
52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014)	22.1006(e)(2)	When subcontract is for exempt services.
52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014)	22.1006(e)(4)	When subcontract is for exempt services.
52.222-55	Minimum Wages Under Executive Order 13658 (DEC 2014)	22.1906	All subcontracts that are subject to Service Contract Labor Standards statute (41 U.S.C. chapter 67) or the Wage Rate Requirements (Construction) statute (40 U.S.C. chapter 31, subchapter IV) and performed in U.S.
52.224-1	Privacy Act Notification (APR 1984)	24.104	When the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Privacy Act (5 U.S.C. § 552a).
52.224-2	Privacy Act (APR 1984)	24.104	All subcontracts which require the design, development, or operation of such a system of records.
52.225-1	Buy American—Supplies (MAY 2014)	25.1101(a)(1)	When the prime contract is subject to FAR 52.225-1.
52.225-3	Buy American—Free Trade Agreements-Israeli Trade Act (MAY 2014)	25.1101(b)(1)	When the prime contract is subject to FAR 52.225-3.
52.225-8	Duty-Free Entry (OCT 2010)	25.1101(e)	Subcontracts in which supplies to be accorded duty-free entry will be imported into the customs territory of the United States OR Other foreign supplies in excess of \$15,000 may be imported into the customs territory of the United States.

52.225-19	Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States (Mar 2008)	25.301-4	All subcontracts that require subcontractor personnel to perform outside the U.S. in contingency operations, humanitarian operations, other military operations, in supporting a consular mission.
52.227-3	Patent Indemnity (DEC 2007)	27.201-2(c)(1)	All subcontracts that may result in the delivery of commercial items.
52.227-9	Refund of Royalties (APR 1984)	27.202-5(c)	All subcontracts in which the amount of royalties reported during negotiation of the subcontract exceeds \$250.
52.227-10	Filing of Patent Applications-Classified Subject Matter (DEC 2007)	27.203-2	If the subcontract will involve classified subject matter.
52.227-11	Patent Rights – Ownership by the Contractor (MAY 2014)	27.303(b)(1)	If the subcontract/purchase order involves experimental, developmental, or research work.
52.227-13	Patent Rights – Ownership by the Government (DEC 2007)	27.303(e)	All subcontracts for experimental, developmental, or research work.
52.228-3	Workers' Compensation Insurance (DEFENSE BASE ACT) (JUL 2014)	28.309(a)	All subcontracts to which the Defense Base Act applies.
52.228-4	Workers' Compensation and War-Hazard Insurance Overseas (APR 1984)	28.309(b)	Insert paragraph (a) in all subcontracts to which the Defense Base Act would apply but for the waiver OR insert paragraph (b) in all subcontracts to which the War Hazards Compensation Act would apply but for the waiver.
52.228-5	Insurance—Work on a Government Installation (JAN 1997)	28.310	All subcontracts that require work on a Government installation.
52.228-7	Insurance—Liability to Third Persons (MAR 1996)	28.311-1	All subcontracts, other than those for construction contracts and those for architect-engineer services, when a cost-reimbursement contract is contemplated.
52.229-10	State of New Mexico Gross Receipts and Compensating Tax (APR 2003)	29.401-4(b)	All cost-reimbursement subcontracts authorizing the subcontractor to acquire tangible personal property as a direct cost under a contract and title to such property passes directly to and vests in the United States upon delivery of the property by the vendor AND the contract will be for services to be performed in whole or in part within the State of New Mexico.
52.232-27	Prompt Payment for Construction Contracts (MAY 2014)	32.908(b)	When prime is a construction

			contract and subcontract is for property or services (including a material supplier), subcontract must include a payment clause and an interest penalty clause conforming to the standards of paragraphs (c)(1) and (c)(2), and subcontractor must require each of its subcontractors to include such clauses in their subcontracts.
52.232-40	Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)	32.009-2	All subcontracts with small business concerns.
52.236-13	Accident Prevention (NOV 1991)	36.513	Only when prime contract is for fixed-price construction or a fixed-price contract for dismantling, demolition, or removal of improvements, and is subject to FAR 52.236-13.
52.237-7	Indemnification and Medical Liability Insurance (JAN 1997)	37.403	All subcontracts under prime contract for nonpersonal health care services.
52.245-1	Government Property (APR 2012)	45.107(a)	All subcontracts under which Government property is acquired or furnished for subcontract performance.

Additional Federal Acquisition Regulation Clauses Which Apply to Construction Subcontracts When Prime Contract Involves Substantive Construction Work over \$2000 and subcontract is for construction, alterations, or repairs:

Clause	Title	Reference	Applicability/Remarks
52.222-6	Construction Wage Rate Requirements (MAY 2014)	22.407(a)	
52.222-7	Withholding of Funds (MAY 2014)	22.407(a)	
52.222-8	Payrolls and Basic Records (MAY 2014)	22.407(a)	
52.222-9	Apprentices and Trainees (MAY 2014)	22.407(a)	
52.222-10	Compliance with Copeland Act Requirements (MAY 2014)	22.407(a)	
52.222-11	Subcontracts (Labor Standards) (MAY 2014)	22.407(a)	
52.222-12	Contract Termination—Debarment (MAY 2014)	22.407(a)	
52.222-13	Compliance with Construction Wage Rate Requirements and Related Regulations (MAY 2014)	22.407(a)	
52.222-14	Disputes Concerning Labor Standards (FEB 1988)	22.407(a)	
52.222-15	Certification of Eligibility (MAY 2014)	22.407(a)	

CLAUSES INCORPORATED FROM THE DEPARTMENT OF DEFENSE SUPPLEMENT TO THE FEDERAL ACQUISITION REGULATION

The following apply to subcontracts/purchase orders issued under Department of Defense prime contracts for the conditions noted:

Clause	Title	Reference	Applicability/Remarks
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (DEC 2008)	203.570-3	For first tier subcontracts that exceed \$150,000.
252.203-7002	Requirement to Inform Employees of Whistleblower Rights (SEP 2013)	203.970	
252.203-7004	Display of Hotline Posters (OCT 2015)	203.1004(b)(2)(ii)	All subcontracts over \$5,500,000
252.204-7000	Disclosure of Information (AUG 2013)	204.404-70(a)	When the contractor will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public.
252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting (SEP 2015)	204.7304(c)	
252.211-7003	Item Unique Identification and Valuation (DEC 2013)	211.274-6(a)(1)	If the Contractor acquires by subcontract, any item(s) for which item unique identification is required in accordance with paragraph (c)(1) of this clause (items over \$5,000 and certain items listed in the contract), the Contractor shall include this clause in the applicable subcontract(s).
252.225-7013	Duty-Free Entry (NOV 2014)	225.1101(4)	When prime uses DFAR 252.225-7013 in place of FAR 52.225-8. The Contractor shall insert the substance of this clause in all subcontracts for (i) Qualifying country components; or (ii) Nonqualifying country components for which the Contractor estimates that duty will exceed \$200 per unit.
252.225-7048	Export-Controlled Items (JUNE 2013)	225.7901-4	
252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004)	226.104	When subcontract exceeds \$500,000
252.227-7013	Rights in Technical Data - Noncommercial Items (FEB 2014)	227.7103-6(a)	If subcontract includes technical data for noncommercial items.
252.227-7016	Rights in Bid or Proposal Information (JAN 2011)	227.7103-6(e)(1)	When prime contract includes 252.227-7013.

252.227-7018	Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program (FEB 2014)	227.7104(a)	If subcontractor will deliver noncommercial technical data or computer software.
252.227-7037	Validation of Restrictive Markings on Technical Data (JUN 2013)	227.7103-6(e)(3)	If subcontractor will deliver technical data.
252.227-7038	Patent Rights—Ownership by the Contractor (Large Business) (JUNE 2012)	227.303(2)	Prime contractor must include FAR 52.227-11 in all subcontracts for experimental, developmental, or research work to be performed by a small business concern or nonprofit organization; BUT must include DFAR 252.227-7038 in all other subcontracts for experimental, developmental, or research work, unless a different patent rights clause is required by FAR 27.303.
252.236-7013	Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers (JUNE 2013)	236.570(d)	Any subcontract that involves the acquisition of steel as a construction material.
252.244-7000	Subcontracts for Commercial Items (JUNE 2013)	244.403	
252.247-7023	Transportation of Supplies by Sea (APR 2014)	247.574(b) and (b)(1)	All paragraphs apply if subcontract is over \$150,000. Paragraphs (a)-(e) and (h) apply if subcontract is at or below \$150,000.
252.247-7024	Notification of Transportation of Supplies by Sea (MAR 2000)	247.574(c)	

II. Flowdown Clauses for Grants and for Cooperative Agreements that Are Subject to OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

The following clauses from OMB Uniform Guidance, Appendix II, are hereby incorporated into this transaction by reference as applicable with the same force and effect as if set forth in full text. OMB Uniform Guidance is available at 2 CFR Part 200, http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl. The clauses that govern a particular federal grant are those in effect at the time the federal grant is awarded to the University.

For purposes of this Purchase Order in the following clauses, the term "contract" shall mean this Purchase Order; the term "Contractor" shall mean Seller.

Contract Provisions

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause

provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) **Davis–Bacon Act, as amended (40 U.S.C. 3141–3148).** When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non–Federal entities must include a provision for compliance with the Davis–Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non–Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non–Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the **Copeland “Anti–Kickback” Act (40 U.S.C. 3145)**, as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non–Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).** Where applicable, all contracts awarded by the non–Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) **Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended**—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non–Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) **Debarment and Suspension (Executive Orders 12549 and 12689)**—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) **Byrd Anti–Lobbying Amendment (31 U.S.C. 1352)**—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non–Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non–Federal award.

(J) A non–Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The

requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.