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# Clause and Provision Selections for Simplified Acquisitions



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## Clause

- Clauses are terms and conditions incorporated into the award.

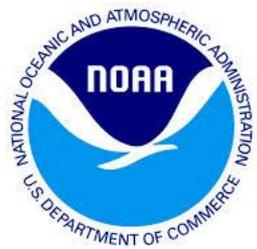
\*\*\*Remember - It is important to read the clause or provision and know what it says before inserting it into a Request for Quote or Award to make sure it fits the requirement.

**NOTE: Slides are not all inclusive.**

## Provision

- Provisions are instructions, conditions, and notices to bidders on the process. They are **NOT** included in the award document.





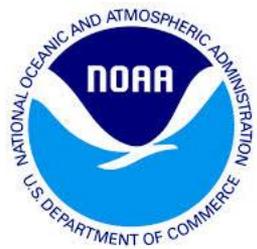
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## CLAUSE/PROVISION HIGHLIGHTS.....

- Full Text (**FT**) – Clause must be included in full text
- By Reference (**BR**) – Clause or provision should be incorporated by reference
- Fill-In – Clause or provision has fill-in, which requires Contract Specialist to enter the appropriate information.



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## REQUIRED PROVISIONS IN COMMERCIAL SOLICITATIONS

**52.203-98 Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements-Representation (Deviation 2015-02) (FT)**

**52.209-11 Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law (FT)/ 52.212-3 Certs and Reps (APR)**

**52.212-1 Instructions to Offerors – Commercial Items (BR)**

**52.212-2 Evaluation of Offerors – Commercial Items (FT) FILL-IN**

**52.212-3 Offeror Representations and Certifications (FT)**



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### REQUIRED PROVISIONS IN COMMERCIAL SOLICITATIONS CONTINUED...

**52.225-2 Buy American Act Certificate (FT) *only if 52.225-1 is used***

**52.252-1 Solicitation Provisions Incorporated by Reference (FT) – FILL-IN**  
**(<https://www.acquisition.gov/?q=browsefar>)**

**52.252-5 Authorized Deviations in Provisions (FT) – FILL-IN**

(b) The use in this solicitation of any the Commerce Acquisition Regulation (CAR) [insert regulation name] (48 CFR Chapter 1352) provision with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.

**NOTE: ALL PROVISIONS ARE DELETED FROM THE SOLICITATION PRIOR TO AWARD**



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## REQUIRED COMMERCIAL CLAUSES

**52.203-99 Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements (Deviation 2015-02) (FT)**

**52.212-4 Contract Terms and Conditions – Commercial Items (BR)**

**52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items (FT) FILL-IN**



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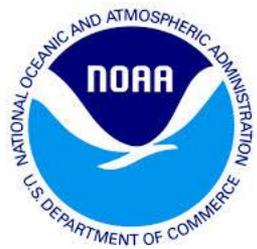


## REQUIRED COMMERCIAL CLAUSES CONTINUED...

**52.232-40 Providing Accelerated Payment to Small Business Subcontractors (BR)**

**52.252-2 Clauses Incorporated By Reference (FT) (FAR site)**

**52.252-6 Authorized Deviations in Clauses (FT) FILL-IN (CAR site)**



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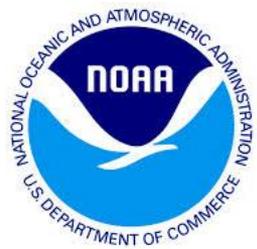
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### HIGHLIGHTS...

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

- (a) Inspection/Acceptance
- (b) Assignment
- (c) Changes
- (d) Disputes
- (e) Definitions
- (f) Excusable delays
- (g) Invoice
- (h) Patent indemnity
- (i) Payment
- (j) Risk of loss



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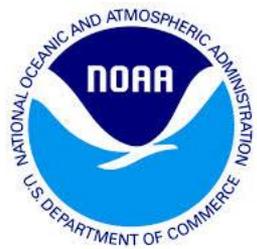
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## HIGHLIGHTS CONTINUED...

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

- (k) Taxes
- (l) Termination for the Government' convenience
- (m) Termination for cause
- (n) Title
- (o) Warranty
- (p) Limitation of liability
- (q) Other compliances
- (r) Compliance with laws unique to government contracts
- (s) Order or precedence
- (t) System for Award Management (SAM)
- (u) Unauthorized Obligations
- (v) Incorporation by reference



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### HIGHLIGHTS...

**52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items (FT) *fill-in (required or commonly selected)***

**52.219-6 Notice of Total Small Business Set-Aside**

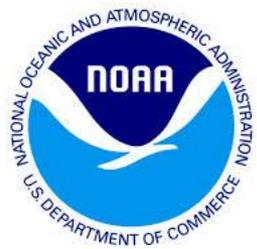
**52.219-13 Notice of Set-Aside Orders**

**52.219-28 Post Award Small Business Program Representation**

**52.222-3 Convict Labor**

**52.222-19 Child Labor (use if supplies exceed micro-purchase threshold)**

**52.222-21 Prohibition of Segregated Facilities (use if over \$10K)**



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### HIGHLIGHTS CONTINUED...

**52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items (FT) *fill-in (required or commonly selected) continued...***

**52.222-26 Equal Opportunity (use if over \$10K and if 52.222-21 is used)**

**52.222-36 Equal Opportunity for Workers with Disabilities (use if over \$15K)**

**52.222-50 Combating Trafficking in Persons**

**52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving**

**52.225-1 Buy American Act-Supplies (as required)**

**52.225-13 Restrictions on Certain Foreign Purchases**

**52.232-33 Payment by Electronic Funds Transfer - SAM**



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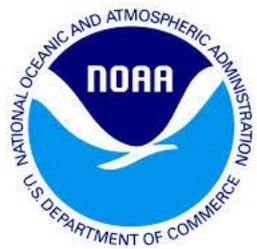


## HIGHLIGHTS CONTINUED...

**52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items (FT) *fill-in (required or commonly selected) continued...***

**52.239-1 Privacy or Security Safeguards (IT requirements only)**

**52.222-41 Service Contract Labor Standards (service > \$2,500)**



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## HIGHLIGHTS CONTINUED...

### 52.222-42 Statement of Equivalent Rates for Federal Hires (FILL-IN)

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](#).

This statement is for information only

Employee Class Monetary Wage-Fringe Benefits

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### 52.222-55 Minimum Wage Under Executive Order 13658



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### OPTION CLAUSES

#### 52.217-8 Option to Extend Services (FT) FILL-IN

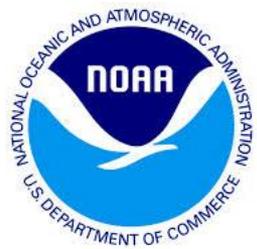
The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within \_\_\_\_\_ [insert the period of time within which the Contracting Officer may exercise the option].

#### 52.217-9 Option to Extend the Term of the Contract (FT) FILL-IN

(a) The Government may extend the term of this contract by written notice to the Contractor within \_\_\_\_\_ [insert the period of time within which the Contracting Officer may exercise the option]; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least \_\_\_\_\_ days [60 days unless a different number of days is inserted] before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed \_\_\_\_\_ (months) (years).



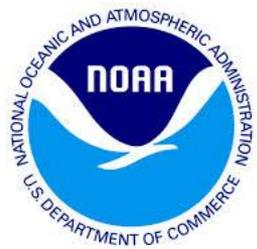
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## **OPTION CLAUSES CONTINUED...**

**52.232-18 Availability of Funds (BR)**



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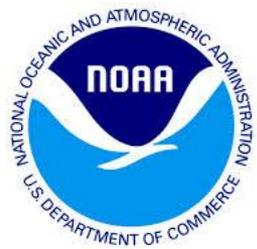
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### BRAND NAME OR EQUAL

**FAR PROVISION:**

**52.211-6 Brand Name or Equal (if applicable) (BR)**



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## NOAA ACQUISITION MANUAL (Part 1330-52 Solicitation Provisions and Contract Clauses)

### PROVISIONS:

**1330-52.203-70 Scientific Integrity and Research Misconduct**

**1330-52.215-70 Schedule of Deliverables**

**1330-52.237-70 Contractor Communications**



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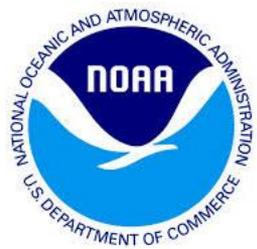


## COMMONLY USED COMMERCE ACQUISITION REGULATIONS (CAR) PROVISIONS

- CAR 1352.233-70                      AGENCY PROTESTS (FT)
- CAR 1352.233-71                      GAO AND COURT OF FEDERAL CLAIMS PROTEST (FT)

## COMMONLY USED COMMERCE ACQUISITION REGULATIONS (CAR) CLAUSES

- CAR 1352.201-70                      Contracting Officer's Authority (BR)
- CAR 1352.209-73                      Compliance with the Laws (BR)
- CAR 1352.209-74                      Organizational Conflict of Interest (BR)



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### NON-COMMERCIAL

#### PROVISIONS

**52.203-98 Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements-Representation (Deviation 2015-02) (FT)**

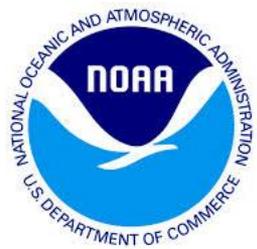
**52.204-7 System for Award Management (BR)**

**52.204-8 Annual Representations and Certifications (FT)**

**52.225-25 Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications (BR)**

**52.252-1 Solicitation Provisions Incorporated by Reference (FT) – FILL-IN**

**52.252-5 Authorized Deviations in Provisions (FT) – FILL-IN**



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### **NON-COMMERCIAL CONTINUED...**

#### **CLAUSES**

**52.203-99 Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements (Deviation 2015-02) (FT)**

**52.204-13 System for Award Management Maintenance (BR)**

**52.204-19 Incorporation by Reference of Representations and Certifications (BR)**

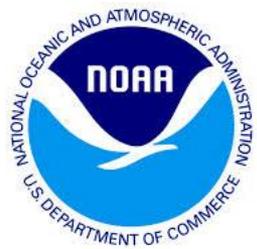
**52.209-10 Prohibition on Contracting with Inverted Domestic Corporations (BR)**

**52.213-4 Terms and Conditions-Simplified Acquisitions (BR)**

**52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving (BR)**

**52.252-2 Clauses Incorporated by Reference (FT)**

**52.252-6 Authorized Deviations in Clauses (FT)**



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# QUESTIONS?