

WORKING AS A *FEDERAL* SUBCONTRACTOR

1



Contractor



Sub-Contractor

TERMS & CONDITIONS CLAUSES AND PROVISIONS

2

UNDERSTAND THE HIDDEN
MANDATORY FLOW DOWN
REQUIREMENTS YOU ARE
REQUIRED TO COMPLY WITH .
. . INCLUDING FLOW DOWN
REQUIREMENTS TO LOWER
TIER
SUBCONTRACTORS/VENDORS!



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Mona Carlson, Nova Contracts Manager

Incorporates Prime Contract

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THIS AGREEMENT (“Subcontract” or “Agreement”) is made January 1, 2022

James Construction (“Contractor”) entered into Contract No. N44255-21-C-0001 Convert Warehouse (“Contract” or “Prime Contract”) with Naval Facilities Engineering Command, NW (“Owner” or “Government”). That Contract and all plans, specifications, amendments, general, special and supplemental conditions, addenda and change orders thereto are incorporated by reference in this Subcontract. **That Contract, including all amendments and subsequent Contract modifications can be accessed at [«udContractDocs»](#).** Specifications which are incorporated by reference into the Contract are so incorporated by reference into this Subcontract.

Mitchel Plumbing (“Subcontractor”) desires to perform a part of the work specified in the Contract, and Contractor is willing to sublet that work to Subcontractor for the consideration and upon the terms and conditions set forth herein.

Subcontractor certifies that it is fully familiar with the terms and conditions of the Contract, the location of the job site, and the conditions under which the work is to be performed, and that it enters into this Subcontract based upon its investigation of all such matters and is not relying on any opinions or representations of Contractor.

Subcontractor is bound to the Contractor to the same extent that Contractor is bound to Owner under the Contract. Where, in the Contract, reference is made to Contractor and the work or specifications therein pertain to Subcontractor’s trade, craft, or type of work, such work or specifications shall be interpreted to apply to Subcontractor instead of Contractor.

Contractor and Subcontractor therefore agree as follows:



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ALWAYS ask for a copy. Don't sign accepting any reference you have not been provided access to

Mona Carlson, Nova Contracts Manager

CLAUSES AND PROVISIONS

- Incorporated by reference*
- Provided in full text*
- Fill in clauses are provided in full text*
- Are identified as clause or provision at the end*
- Christian Doctrine*

52.211-10 -- Commencement, Prosecution, and Completion of Work (Apr 1984)

The Contractor shall be required to (a) commence work under this contract within **10** calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than **365** days. The time stated for completion shall include final cleanup of the premises.

(End of Clause)

52.216-1 -- Type of Contract (Apr 1984)

The Government contemplates award of a **firm-fixed price** contract resulting from this solicitation.

(End of Provision)



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CLAUSES AND PROVISIONS

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Part or Subpart	Section	Sequential Number	Title
<i>FAR</i> 52	236	- 13	Accident Prevention
<i>DFAR</i> 252	236	- 7005	Airfield Safety Precautions
<i>NFAS</i> 5252	236	- 9303	Accident Prevention

DFARS provisions or clauses use a four digit sequential number in the 7000 series, e.g., -7000, -7001, -7002. Department or agency supplemental provisions or clauses use four digit sequential numbers in the 9000 series.

Part 36 Construction & Architect –Engineering Services



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Provisions *(prior to award)*

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52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.

As prescribed in 3.808(a), insert the following provision:

Do not apply to subcontractors

CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEPT 2007)

(a) *Definitions.* As used in this provision-"Lobbying contact" has the meaning provided at [2 U.S.C. 1602\(8\)](#). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" ([52.203-12](#)).

(b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" ([52.203-12](#)) are hereby incorporated by reference in this provision.

(c) *Certification.* **The offeror, by signing its offer, hereby certifies to the best of its knowledge and belief** that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by [31 U.S.C. 1352](#). Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each

(End of provision)



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Clauses *(after award)*

*Apply to
subcontractors*

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52.203-17 Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights.

As prescribed in 3.908-9, insert the following **clause**:

CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (JUN 2020)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and Federal Acquisition Regulation (FAR) 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section FAR 3.908.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold, as defined in FAR 2.101 on the contract award.

(End of **clause**)

<https://www.acquisition.gov/far/52.21203-17>



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Flow Down Clauses

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52.203-17 Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights.

As prescribed in 3.908-9, insert the following **clause**:

Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Jun 2020)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at [41 U.S.C. 4712](#) by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and Federal Acquisition Regulation (FAR) [3.908](#).

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under [41 U.S.C. 4712](#), as described in section FAR [3.908](#).

(c) The Contractor shall **insert the substance of this clause**, including this paragraph (c), **in all subcontracts over the simplified acquisition threshold**, as defined in FAR [2.101](#) on the date of subcontract award.

(End of **clause**)



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52.243 [Reserved] | Acquisition.GOV

https://www.acquisition.gov/far/52.243

An official website of the U.S. Department of Defense

ACQUISITION.GOV

Home > Regulations > FAR > 52.243 [Reserved]

FAR
 FAC Number: 2022-04
 Effective Date: 01/30/2022

Part 52

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52.243 [Reserved]

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[52.243-1 Changes-Fixed-Price.](#)
[52.243-2 Changes-Cost-Reimbursement.](#)
[52.243-3 Changes-Time-and-Materials or Labor-Hours.](#)
[52.243-4 Changes.](#)
[52.243-5 Changes and Changed Conditions.](#)
[52.243-6 Change Order Accounting.](#)
[52.243-7 Notification of Changes.](#)

Parent topic: [Subpart 52.2 - Text of Provisions and Clauses](#)

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Definitions Tool

Hide



43.205 Contract clauses.

- (a) (1) The contracting officer shall insert the clause at 52.243-1, Changes-Fixed-Price, in solicitations and contracts when a fixed-price contract for supplies is contemplated.
- (2) If the requirement is for services, other than architect-engineer or other professional services, and no supplies are to be furnished, the contracting officer shall use the clause with its AlternateI.
- (3) If the requirement is for services (other than architect-engineer services, transportation, or research and development) and supplies are to be furnished, the contracting officer shall use the clause with its Alternatell.
- (4) If the requirement is for architect-engineer or other professional services, the contracting officer shall use the clause with its Alternatelll.
- (5) If the requirement is for transportation services, the contracting officer shall use the clause with its AlternateIV.
- (6) If it is desired to include the clause in solicitations and contracts when a research and development contract is contemplated, the contracting officer shall use the clause with its Alternate V.
- (b) (1) The contracting officer shall insert the clause at 52.243-2, Changes-Cost-Reimbursement, in solicitations and contracts when a cost-reimbursement contract for supplies is contemplated.
- (2) If the requirement is for services and no supplies are to be furnished, the contracting officer shall use the clause with its AlternateI.
- (3) If the requirement is for services and supplies are to be furnished, the contracting officer shall use the clause with its Alternatell.
- (4) If the requirement is for construction, the contracting officer shall use the clause with its Alternatelll.
- (5) [Reserved]
- (6) If it is desired to include the clause in solicitations and contracts when a research and development contract is contemplated, the contracting officer shall use the clause with its Alternate V.
- (c) Insert the clause at 52.243-3, Changes-Time-and-Materials or Labor-Hours, in solicitations and contracts when a time-and-materials or labor-hour contract is contemplated. The contracting officer may vary the 30-day period in paragraph (c) of the clause according to agency procedures.
- (d) The contracting officer shall insert the clause at 52.243-4, Changes, in solicitations and contracts for-
- (1) Dismantling, demolition, or removal of improvements; and
- (2) Construction, when a fixed-price contract is contemplated and the contract amount is expected to exceed the simplified acquisition threshold.
- (e) The contracting officer shall insert the clause at 52.243-5, Changes and Changed Conditions, in solicitations and contracts for construction, when the contract amount is not expected to exceed the simplified acquisition threshold.
- (f) The contracting officer may insert a clause, substantially the same as the clause at 52.243-6, Change Order Accounting, in solicitations and contracts for supply and research and development contracts of significant technical complexity, if numerous changes are anticipated. The clause may be included in solicitations and contracts for construction if deemed appropriate by the contracting officer.

Parent topic: [Subpart 43.2 - Change Orders](#)

Clauses Enforced on Contractor

(for subcontractor performance)

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252.236-7000 - MODIFICATION PROPOSALS -- PRICE BREAKDOWN (DEC 1991)

(a) The Contractor shall furnish a price breakdown, itemized as required and within the time specified by the Contracting Officer, with any proposal for a contract modification.

(b) The price breakdown—

(1) Must include sufficient detail to permit an analysis of profit, and of all costs for—

- (i) Material;
- (ii) Labor;
- (iii) Equipment;
- (iv) Subcontracts; and
- (v) Overhead; and

(2) Must cover all work involved in the modification, whether the work was deleted, added, or changed.

(c) The Contractor shall provide similar price breakdowns to support any amounts claimed for subcontracts.

(d) The Contractor's proposal shall include a justification for any time extension proposed. (End of clause)



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MANDATORY FLOW DOWN CLAUSES

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In accordance with the Contract, the clauses listed below are incorporated by reference as a part of this Agreement with the same force and effect as if they were set forth herein in full text and apply as prescribed below. The Subcontractor shall include the listed clauses in its subcontracts at any tier, to the extent applicable.

APPLICABLE TO ALL SUBCONTRACTS/PURCHASE ORDERS:

FAR 52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010)

FAR 52.204-9: Personal Identity Verification of Contractor Personnel (Jan 2011) *Applies if work or access to a Government installation*

FAR 52.204-21: Basic Safeguarding of Covered Contractor Information Systems (JUN 2016)

FAR 52.204-23: Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (JUL 2018)

FAR 52.222-50: Combating Trafficking in Persons (JAN 2019)

FAR 52.222-55: Minimum Wages Under Executive Order 13658. (DEC 2015)

FAR 52.222-62: Paid Sick Leave Under Executive Order 137658 (JAN 2017)

FAR 52.225-13: Restrictions on Certain Foreign Purchases (JUN 2008)

FAR 52.228-5: Insurance – Work on a Government Installation (JAN 1997). *Applies if work or access to a Government installation*

FAR 52.232-27: Prompt Payment for Construction Contracts (MAY 2014)

FAR 52.232-40: Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)

FAR 52.236-13: Accident Prevention (NOV 1991) Applies if work or access to a Government inst



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FAR 52.244-6: Subcontracts for Commercial Items (JAN 2019). *Subcontracts for Commercial Items shall require the following clauses:*

- 52.203-13 Contractor Code of Business Ethics and Conduct (Oct 2015)
- 52.203-15 Whistleblower Protection Under the American Recovery and Reinvestment Act of 2009 (Jun 2010)
- 52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)
- 52.204-21 Basic Safeguarding of Covered Contractor Information Systems (June 2016)
- 52.204-23 Prohibition of Contracting for Hardwar, Software, and Services Developed or Provided Kaspersky Lab and Other Covered Entities (Jul 2018)
- 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2019)
- 52.219-8 Utilization of Small Business Concerns (Oct 2018)
- 52.222-21 Prohibition of Segregated Facilities (Apr 2015)
- 52.222-26 Equal Opportunity (Sept 2015)
- 52.222-35 Equal Opportunity for Veterans (Oct 2015)
- 52.222-36 Equal Opportunity for Workers with Disabilities (July 2014)
- 52.222-37 Employment Reports on Veterans (FEB 2016)
- 52.222-40 Notification of Employee Rights Under the National Labor Relations Act (DEC 2010)
- 52.222-50 Combating Trafficking in Persons (Mar 2015) Alternate I (Mar 2015)
- 52.222-55 Minimum Wages under Executive Order 13658 (DEC 2015).
- 52.222-62 Paid Sick Leave Under Executive Oder 13706 (Jan 2017)
- 52.224-3 Privacy Training (Jan 2017)
- 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013)
- 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)
- 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006)



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DFAR 252.203-7002: Requirement to Inform Employees of Whistleblower Rights (SEP 2013)
DFAR 252.204-7000: Disclosure of Information (AUG 2013)
DFAR 252.204-7012: Safeguarding Covered Defense Information and Cyber Incident Reporting (OCT 2016)
DFAR 252.223-7006: Prohibition on Storage, Treatment, and Disposal of Toxic or Hazardous Materials (SEP 2014)
Applies if work or access to a Government installation
DFAR 252.225-7048: Export-Controlled Items (JUN 2013).
DFAR 252.227-7033: Rights in Shop Drawings (APR 1966)
DFAR 252.236-7013: Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers (JUN 2013)
DFAR 252.244-7000: Subcontracts for Commercial Items. (JUN 2013)
DFAR 252.247-7023: Transportation of Supplies by Sea – Basic (FEB 2019)
DFAR 252.247-7024: Notification of Transportation of Supplies By Sea (MAR 2000)

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$2,000

FAR 52.222-4: Contract Work Hours and Safety Standards-Overtime Compensation (MAR 2018)
FAR 52.222-6: Construction Wage Rate Requirements (MAY 2014) (*Note: Download the Davis-Bacon Poster (WH-1321) at: <https://www.dol.gov/whd/programs/dbra/wh1321.htm>*)
FAR 52.222-7: Withholding of Funds (MAY 2014)
FAR 52.222-8: Payrolls and Basic Records (MAY 2014)
FAR 52.222-9: Apprentices and Trainees (JUL 2005)
FAR 52.222-10: Compliance with Copeland Act Requirements (FEB 1988)
FAR 52.222-11: Subcontracts (LABOR STANDARDS) (MAY 2014)
FAR 52.222-12: Contract Termination - Debarment (MAY 2014)
FAR 52.222-13: Compliance with Construction Wage Rate Requirements and Related Regulations (MAY 2014)
FAR 52.222-14: Disputes Concerning Labor Standards (FEB 1988))
FAR 52.222-15: Certification of Eligibility (MAY 2014)



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APPLICABLE IF THE SUBCONTRACT EXCEEDS \$3,500:
FAR 52.222-54: Employment Eligibility Verification. (OCT 2015)

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$10,000:
FAR 52.223-18: Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)
FAR 52.222-27: Affirmative Action Compliance Requirements for Construction (APR 2015)
FAR 52.222-40: Notification of Employee Rights Under the National Labor Relations Act. (DEC 2010)

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$15,000:
FAR 52.222-36: Employment Reports on Veterans. (FEB 2016)

APPLICABLE IF THE SUBCONTRACT/PURCHASE ORDER EXCEEDS \$35,000:
FAR 52.209-6: Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (OCT 2015)

APPLICABLE IF THE SUBCONTRACT/PURCHASE ORDER EXCEEDS \$70,000:
FAR 52.248-3:52.248-3 -Value Engineering -- Construction (OCT 2015)

APPLICABLE IF THE SUBCONTRACT/PURCHASE ORDER EXCEEDS \$150,000
FAR 52.203-6: Restrictions on Subcontractor Sales to the Government (SEP 2006)
FAR 52.203-7: Anti-Kickback Procedures (MAY 2014), *excluding Paragraph (c)(1)*.
FAR 52.203-12: Limitation on Payments to Influence Certain Federal Transactions (OCT 2010)



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FAR 52.203-17: Contractor Employee Whistleblower Rights and Requirements to Inform Employees of Whistleblower Rights (APR 2014)

FAR 52.215-2: Audit and Records – Negotiation (OCT 2010)

FAR 52.222-35: Equal Opportunity for Veterans. (OCT 2015)

FAR 52.222-37: Employment Reports on Veterans. (FEB 2016)

DFAR 252.203-7001: Prohibition on Persons Convicted of Fraud or Other Defense Contract Related Felonies (DEC 2008)

APPLICABLE IF THE SUBCONTRACT/PURCHASE ORDERS EXCEEDS \$2,000,000 (DEVIATION):

FAR 52.215-13: Subcontractor Certified Cost or Pricing Data – Modifications (OCT 2010)

FAR 52.215-15: Pension Adjustments and Asset Reversions (OCT 2010)

FAR 52.215-18: Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions (JUL 2005)

FAR 52.215-19: Notification of Ownership Changes (OCT 1997)

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$5,500,000:

FAR 52.203-13: Contractor Code of Business Ethics and Conduct (OCT 2015), *if the period of performance exceeds 120 days.*

APPLICABLE IF THE SUBCONTRACT INVOLVES CLASSIFIED INFORMATION OR UNESCORTED ACCESS TO "LIMITED SECURITY AREAS":

FAR 52.204-2 ALT II: Security Requirements (AUG 1996)

For the Subcontractor's convenience the clauses in full text can be found [«udContractDocs»](#).



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52.202-1 Definitions.

As prescribed in 2.201 , insert the following clause:

Definitions (Jun 2020)

When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless-

- (a) The solicitation, or amended solicitation, provides a different definition;
- (b) The contracting parties agree to a different definition;
- (c) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning;
- (d) The word or term is defined in FAR part 31, for use in the cost principles and procedures; or
- (e) The word or term defines an acquisition-related threshold, and if the threshold is adjusted for inflation as set forth in FAR 1.109(a), then the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment; see FAR 1.109(d).

(End of clause)

52.202-1 --Definitions (Nov 2013)

When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless--

- (a) The solicitation, or amended solicitation, provides a different definition;
- (b) The contracting parties agree to a different definition;
- (c) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or
- (d) The word or term is defined in FAR Part 31, for use in the cost principles and procedures. (End of Clause)

52.203-3 -- Gratuities (Apr 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative --

- (1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and
- (2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) of this clause, the Government is entitled --

- (1) To pursue the same remedies as in a breach of the contract; and
- (2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract. (End of Clause)

52.203-5 -- Covenant Against Contingent Fees (May 2014)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

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QUESTIONS

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Mona Carlson

**Nova Group, Inc Contracts
Manager**

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