

**CDC-NIOSH Subcontract Supplemental Terms & Conditions**

(Contract Number: 75D30119C05226)



**1. Title and Administration**

Any right and/or interest which is acquired under the terms of this Agreement shall pass directly from Seller to the Government. Company shall make payments under this Agreement from funds advanced by the Government and agreed to be advanced by NIOSH, and not from its own assets. Administration of this Agreement may be transferred, in whole or in part, to NIOSH or its designee(s), and to the extent of such transfer and notice thereof to Seller, Company shall have no further responsibilities hereunder

**2. FAR 52.252-6 Authorized Deviations in Clauses (Apr 1984)**

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the date of the clause.

(b) The use in this solicitation or contract of any Health and Human Services Acquisition Regulation (48 CFR Chapter 3) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.

**Clauses Incorporated By Reference**

**3. FAR 52.252-2 Clauses Incorporated by Reference (Feb 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.acquisition.gov>

<http://farsite.hill.af.mil/vmfara.htm>

<b>FAR SOURCE</b>	<b>TITLE AND DATE</b>
52.202-1	Definitions (Nov 2013)
52.203-3	Gratuities (Apr 1984)
52.203-5	Covenant against Contingent Fees (May 2014)
52.203-6	Restrictions on Subcontractor Sales to the Government (Sep 2006)
52.203-7	Anti-Kickback Procedures (May 2014)
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (May 2014)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (May 2014)
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (Oct 2010)
52.203-13	Contractor Code of Business Ethics and Conduct (Oct 2015)
52.203-14	Display of Hotline Poster(s) (Oct 2015)
52.203-17	Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights (Apr 2014)
52.204-2	Security Requirements (Aug 1996)
52.204-4	Printed or Copied Double-Sided on Recycled Paper (May 2011)
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2018)
52.204-13	System for Award Management Maintenance (Oct 2018)
52.204-14	Service Contract Reporting Requirements (Oct 2016)
52.204-19	Incorporation by Reference of Representations and Certifications (Dec 2014)
52.209-6	Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015)
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018)
52.209-10	Prohibition on Contracting With Inverted Domestic Corporations (Nov 2015)
52.215-2	Audit and Records - Negotiation (Oct 2010)
52.215-8	Order of Precedence - Uniform Contract Format (Oct 1997)
52.215-10	Price Reduction for Defective Cost or Pricing Data (Aug 2011)
52.215-11	Price Reduction for Defective Cost or Pricing Data - Modifications (Aug 2011)
52.215-12	Subcontractor Cost or Pricing Data (Oct 2010)
52.215-13	Subcontractor Cost or Pricing Data - Modifications (Oct 2010)
52.215-14	Integrity of Unit Prices (Oct 2010)

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<b>FAR SOURCE</b>	<b>TITLE AND DATE</b>
52.215-15	Pension Adjustments and Asset Reversions (Oct 2010)
52.215-17	Waiver of Facilities Capital Cost of Money (June 2003) (As Applicable)
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (Jul 2005)
52.215-19	Notification of Ownership Changes (Oct 1997)
52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data -- Modifications (Oct 2010)
52.215-23	Limitations on Pass-Through Charges (Oct 2009)
52.216-7	Allowable Cost and Payment (Jun 2013)
52.219-4	Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014)
52.219-8	Utilization of Small Business Concerns (Oct 2018)
52.219-9	Small Business Subcontracting Plan (Aug 2018)- Alternate II (Nov 2016)
52.219-16	Liquidated Damages - Subcontracting Plan (Jan 1999)
52.219-28	Post-Award Small Business Program Representation (Jul 2013)
52.222-2	Payment for Overtime Premiums (Jul 1990)
52.222-3	Convict Labor (Jun 2003)
52.222-21	Prohibition of Segregated Facilities (Apr 2015)
52.222-26	Equal Opportunity (Sep 2016)
52.222-35	Equal Opportunity for Veterans (Oct 2015)
52.222-36	Affirmative Action for Workers With Disabilities (Oct 2010)
52.222-37	Equal Opportunity for Workers with Disabilities (Jul 2014)
52.222-38	Compliance With Veterans' Employment Reporting Requirements (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)
52.222-54	Employment Eligibility Verification (Oct 2015)
52.223-6	Drug-Free Workplace (May 2001)
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011)
52.224-1	Privacy Act Notification (Apr 1984)
52.224-2	Privacy Act (Apr 1984)
52.225-1	Buy American Act – Supplies (May 2014)
52.225-13	Restrictions on Certain Foreign Purchases (Jun 2008)
52.227-1	Authorization and Consent (Dec 2007)
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2007)
52.227-3	Patent Indemnity (Apr 1984)
52.227-14	Rights in Data - General (May 2014)
52.227-17	Rights in Data – Special Works (Dec 2007)
52.228-7	Insurance -- Liability to Third Persons (Mar 1996)
52.230-2	Cost Accounting Standards (Oct 2015)
52.230-3	Disclosure and Consistency Cost Accounting Practices (Oct 2015)
52.230-6	Administration of Cost Accounting Standards (Jun 2010)
52.232-9	Limitation on Withholding of Payments (Apr 1984)
52.232-17	Interest (May 2014)
52.232-20	Limitation of Cost (Apr 1984)
52.232-22	Limitation of Funds (Apr 1984)
52.232-23	Assignment of Claims (May 2014)
52.232-25	Prompt Payment (Jan 2017) – Alternate I (Feb 2002)
52.232-33	Payment by Electronic Funds Transfer—System for Award Management (Oct 2018)
52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)
52.233-1	Disputes (May 2014)
52.233-3	Protest After Award (Aug 1996) – Alternate I (Jun 1985)
52.233-4	Applicable Law for Breach of Contract Claim (Oct 2004)
52.237-2	Protection of Government Buildings, Equipment, and Vegetation (Apr 1984)
52.237-3	Continuity Of Services (Jan 1991)
52.239-1	Privacy or Security Safeguards (Aug 1996)

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<b>FAR SOURCE</b>	<b>TITLE AND DATE</b>
52.242-1	Notice of Intent to Disallow Costs (Apr 1984)
52.242-3	Penalties for Unallowable Costs (May 2014)
52.242-4	Certification of Final Indirect Costs (Jan 1997)
52.242-13	Bankruptcy (Jul 1995)
52.243-2	Changes - Cost-Reimbursement (Aug 1987) – Alternate I (Apr 1984)
52.244-2	Subcontracts (Oct 2010) – Alternate I (Jun 2007)
52.244-5	Competition in Subcontracting (Dec 1996)
52.244-6	Subcontracts for Commercial Items (Oct 2018)
52.245-1	Government Property (Jan 2017)
52.245-9	Use and Charges (Apr 2012)
52.246-5	Inspection of Services – Cost Reimbursement (Apr 1984)
52.246-25	Limitation of Liability - Services (Feb 1997)
52.248-1	Value Engineering (Oct 2010)
52.249-6	Termination (Cost Reimbursement) (May 2004)
52.249-14	Excusable Delays (Apr 1984)
52.253-1	Computer Generated Forms (Jan 1991)

<b>HHSAR SOURCE</b>	<b>TITLE AND DATE</b>
352.203-70	Anti-Lobbying (Dec 2015)
352.211-3	Paperwork Reduction Act (Dec 2015)
352.219-71	Mentor-Protégé Program Reporting Requirements (Dec 2015)
352.222-70	Contractor Cooperation in Equal Employment Opportunity Investigations (Dec 2015)
352.223-70	Safety and Health (Dec 2015)
352.224-70	Privacy Act (Dec 2018)
352.224-71	Confidential Information (Dec 2015)
352.227-70	Publications and Publicity (Dec 2015)
352.233-71	Litigation and Claims (Dec 2015)
352.237-75	Key Personnel (Dec 2015)
352.239-74	Electronic and Information Technology Accessibility (Dec 2015)

**Clauses Incorporated In Full Text**

**4. FAR 52.217-8 Option to Extend Services (Nov 1999)**

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 **any time period prior to expiration of the contract or any exercised option period.**

(End of Clause)

**5. FAR 52.217-9 Option to Extend the Term of the Contract (Mar 2000)**

(a) The Government may extend the term of this contract by written notice to the Contractor within **any time period prior to expiration of the contract or any exercised option period;** provided, that the Government gives the Contractor a preliminary written notice of its intent to extend at least thirty (30) days [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 **five (5) years.**

(End of Clause)

**6. HHSAR 352.231-70 Salary Rate Limitation (Dec 2015)**

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(a) The Contractor shall not use contract funds to pay the direct salary of an individual at a rate in excess of the Federal **Executive Schedule Level II** in effect on the date the funding was obligated.

(b) For purposes of the salary rate limitation, the terms “direct salary,” “salary,” and “institutional base salary,” have the same meaning and are collectively referred to as “direct salary,” in this clause. An individual's direct salary is the annual compensation that the Contractor pays for an individual's direct effort (costs) under the contract. Direct salary excludes any income that an individual may be permitted to earn outside of duties to the Contractor. Direct salary also excludes fringe benefits, overhead, and general and administrative expenses (also referred to as indirect costs or facilities and administrative costs). The salary rate limitation does not restrict the salary that an organization may pay an individual working under a Department of Health and Human Services contract or order; it merely limits the portion of that salary that may be paid with contract funds.

(c) The salary rate limitation also applies to individuals under subcontracts.

(d) If this is a multiple-year contract or order, it may be subject to unilateral modification by the Contracting Officer to ensure that an individual is not paid at a rate that exceeds the salary rate limitation provision established in the HHS appropriations act used to fund this contract.

(e) See the salaries and wages pay tables on the Office of Personnel Management website for Federal Executive Schedule salary levels.

(End of clause)

**7. DEAR 952.204-2 SECURITY (Aug 2016)**

(a) *Responsibility.* It is the Contractor's duty to protect all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for protecting all classified information and all classified matter (including documents, material and special nuclear material) which are in the Contractor's possession in connection with the performance of work under this contract against sabotage, espionage, loss or theft. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter or special nuclear material in the possession of the Contractor or any person under the Contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion or termination of the contract, the Contractor shall identify the items and classification levels and categories of matter proposed for retention, the reasons for the retention, and the proposed period of retention. If the retention is approved by the Contracting Officer, the security provisions of the contract shall continue to be applicable to the classified matter retained. Special nuclear material shall not be retained after the completion or termination of the contract.

(b) *Regulations.* The Contractor agrees to comply with all security regulations and contract requirements of DOE as incorporated into the contract.

(c) *Definition of classified information.* The term *Classified Information* means information that is classified as Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure under Executive Order 12958, *Classified National Security Information*, as amended, or prior executive orders, which is identified as *National Security Information*.

(d) *Definition of restricted data.* The term *Restricted Data* means all data concerning design, manufacture, or utilization of atomic weapons; production of special nuclear material; or use of special nuclear material in the production of energy, but excluding data declassified or removed from the Restricted Data category pursuant to 42 U.S.C. 2162 [Section 142, as amended, of the Atomic Energy Act of 1954].

(e) *Definition of formerly restricted data.* The term “*Formerly Restricted Data*” means information removed from the Restricted Data category based on a joint determination by DOE or its predecessor agencies and the Department of Defense that the information—(1) Relates primarily to the military utilization of atomic weapons; and (2) can be adequately protected as National Security Information. However, such information is subject to the same restrictions on transmission to other countries or regional defense organizations that apply to Restricted Data.

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(f) *Definition of national security information.* The term “National Security Information” means information that has been determined, pursuant to Executive Order 12958, Classified National Security Information, as amended, or any predecessor order, to require protection against unauthorized disclosure, and that is marked to indicate its classified status when in documentary form.

(g) *Definition of special nuclear material.* The term “special nuclear material” means—(1) Plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which, pursuant to 42 U.S.C. 2071 [section 51 as amended, of the Atomic Energy Act of 1954] has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(h) *Access authorizations of personnel.* (1) The Contractor shall not permit any individual to have access to any classified information or special nuclear material, except in accordance with the Atomic Energy Act of 1954, and the DOE's regulations and contract requirements applicable to the particular level and category of classified information or particular category of special nuclear material to which access is required.

(2) The Contractor must conduct a thorough review, as defined at 48 CFR 904.401, of an uncleared applicant or uncleared employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.

(i) A review must—Verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct local law enforcement checks when such checks are not prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in the jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

(ii) Contractor reviews are not required for an applicant for DOE access authorization who possesses a current access authorization from DOE or another Federal agency, or whose access authorization may be reapproved without a federal background investigation pursuant to Executive Order 12968, Access to Classified Information (August 4, 1995), Sections 3.3(c) and (d).

(iii) In collecting and using this information to make a determination as to whether it is appropriate to select an uncleared applicant or uncleared employee to a position requiring an access authorization, the Contractor must comply with all applicable laws, regulations, and Executive Orders, including those—(A) Governing the processing and privacy of an individual's information, such as the Fair Credit Reporting Act, Americans with Disabilities Act (ADA), and Health Insurance Portability and Accountability Act; and (B) prohibiting discrimination in employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, including with respect to pre- and post-offer of employment disability related questioning.

(iv) In addition to a review, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR 707.4. All positions requiring access authorizations are deemed *testing designated positions* in accordance with 10 CFR part 707. All employees possessing access authorizations are subject to applicant, random or for cause testing for use of illegal drugs. DOE will not process candidates for a DOE access authorization unless their tests confirm the absence from their system of any illegal drug.

(v) When an uncleared applicant or uncleared employee receives an offer of employment for a position that requires a DOE access authorization, the Contractor shall not place that individual in such a position prior to the individual's receipt of a DOE access authorization, unless an approval has been obtained from the head of the cognizant local security office. If the individual is hired and placed in the position prior to receiving an access authorization, the uncleared employee may not be afforded access to classified information or matter or special nuclear material (in categories requiring access authorization) until an access authorization has been granted.

(vi) The Contractor must maintain a record of information concerning each uncleared applicant or uncleared employee who is selected for a position requiring an access authorization. Upon request only, the following information will be furnished to the head of the cognizant local DOE Security Office:

(A) The date(s) each Review was conducted;



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(B) Each entity that provided information concerning the individual;

(C) A certification that the review was conducted in accordance with all applicable laws, regulations, and Executive Orders, including those governing the processing and privacy of an individual's information collected during the review;

(D) A certification that all information collected during the review was reviewed and evaluated in accordance with the Contractor's personnel policies; and

(E) The results of the test for illegal drugs.

(i) *Criminal liability.* It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to protect any classified information, special nuclear material, or other Government property that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, its agents, employees, or Subcontractors to criminal liability under the laws of the United States (see the Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq.*; 18 U.S.C. 793 and 794).

(j) *Foreign ownership, control, or influence.* (1) The Contractor shall immediately provide the cognizant security office written notice of any change in the extent and nature of foreign ownership, control or influence over the Contractor which would affect any answer to the questions presented in the Standard Form (SF) 328, *Certificate Pertaining to Foreign Interests*, executed prior to award of this contract. The Contractor will submit the Foreign Ownership, Control or Influence (FOCI) information in the format directed by DOE. When completed the Contractor must print and sign one copy of the SF 328 and submit it to the Contracting Officer. In addition, any notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice, shall also be furnished concurrently to the Contracting Officer.

(2) If a Contractor has changes involving foreign ownership, control, or influence, DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, DOE will consider proposals made by the Contractor to avoid or mitigate foreign influences.

(3) If the cognizant security office at any time determines that the Contractor is, or is potentially, subject to foreign ownership, control, or influence, the Contractor shall comply with such instructions as the Contracting Officer shall provide in writing to protect any classified information or special nuclear material.

(4) The Contracting Officer may terminate this contract for default either if the Contractor fails to meet obligations imposed by this clause or if the Contractor creates a foreign ownership, control, or influence situation in order to avoid performance or a termination for default. The Contracting Officer may terminate this contract for convenience if the Contractor becomes subject to foreign ownership, control, or influence and for reasons other than avoidance of performance of the contract, cannot, or chooses not to, avoid or mitigate the foreign ownership, control, or influence problem.

(k) *Employment announcements.* When placing announcements seeking applicants for positions requiring access authorizations, the Contractor shall include in the written vacancy announcement, a notification to prospective applicants that reviews, and tests for the absence of any illegal drug as defined in 10 CFR 707.4, will be conducted by the employer and a background investigation by the Federal government may be required to obtain an access authorization prior to employment, and that subsequent reinvestigations may be required. If the position is covered by the Counterintelligence Evaluation Program regulations at 10 CFR part 709, the announcement should also alert applicants that successful completion of a counterintelligence evaluation may include a counterintelligence-scope polygraph examination.

(l) *Flow down to subcontracts.* The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph, in all subcontracts under its contract that will require subcontractor employees to possess access authorizations. Additionally, the Contractor must require such subcontractors to have an existing DOD or DOE facility clearance or submit a completed SF 328, *Certificate Pertaining to Foreign Interests*, as required in 48 CFR 952.204-73, Facility Clearance, and obtain a foreign ownership, control and influence determination and facility clearance prior to award of a subcontract. Information to be provided by a subcontractor pursuant to this clause may be submitted directly to the Contracting Officer. For purposes of this clause, subcontractor means any subcontractor at any tier and the term "Contracting Officer" means the DOE Contracting Officer. When this clause is included in a subcontract, the term "Contractor" shall mean subcontractor and the term "contract" shall mean subcontract.



(End of clause)

**8. DEAR 952.204-70 CLASSIFICATION/DECLASSIFICATION (SEP 1997)**

In the performance of work under this contract, the Contractor or subcontractor shall comply with all provisions of the Department of Energy's regulations and mandatory DOE directives which apply to work involving the classification and declassification of information, documents, or material. In this section, "information" means facts, data, or knowledge itself; "document" means the physical medium on or in which information is recorded; and "material" means a product or substance which contains or reveals information, regardless of its physical form or characteristics. Classified information is "Restricted Data" and "Formerly Restricted Data" (classified under the Atomic Energy Act of 1954, as amended) and "National Security Information" (classified under Executive Order 12958 or prior Executive Orders). The original decision to classify or declassify information is considered an inherently Governmental function. For this reason, only Government personnel may serve as original classifiers, i.e., Federal Government Original Classifiers. Other personnel (Government or Contractor) may serve as derivative classifiers which involves making classification decisions based upon classification guidance which reflect decisions made by Federal Government Original Classifiers.

The Contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a Federal Government or a Contractor Derivative Classifier in accordance with classification regulations including mandatory DOE directives and classification/declassification guidance furnished to the Contractor by the Department of Energy to determine whether it contains classified information prior to dissemination. For information which is not addressed in classification/declassification guidance, but whose sensitivity appears to warrant classification, the Contractor or subcontractor shall ensure that such information is reviewed by a Federal Government Original Classifier.

In addition, the Contractor or subcontractor shall ensure that existing classified documents (containing either Restricted Data or Formerly Restricted Data or National Security Information) which are in its possession or under its control are periodically reviewed by a Federal Government or Contractor Derivative Declassifier in accordance with classification regulations, mandatory DOE directives and classification/declassification guidance furnished to the Contractor by the Department of Energy to determine if the documents are no longer appropriately classified. Priorities for declassification review of classified documents shall be based on the degree of public and researcher interest and the likelihood of declassification upon review. Documents which no longer contain classified information are to be declassified. Declassified documents then shall be reviewed to determine if they are publicly releasable. Documents which are declassified and determined to be publicly releasable are to be made available to the public in order to maximize the public's access to as much Government information as possible while minimizing security costs.

The Contractor or subcontractor shall insert this clause in any subcontract which involves or may involve access to classified information.

(End of clause)

**9. FAR 52.222-2 Payment for Overtime Premiums (Jul 1990)**

The use of overtime is authorized under this contract if the overtime premium does not exceed (\$0\_) or the overtime premium is paid for work—

1. Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;
2. By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;
3. To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or
4. That will result in lower overall costs to the Government.

Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall—

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1. Identify the work unit; e.g., department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime;
2. Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;
3. Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and
4. Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.

(End of clause)