


<b>SOLICITATION, OFFER, AND AWARD</b> (Construction, Alteration, or Repair)	1. SOLICITATION NO. 12805B23Q0168	2. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 02/06/2023	PAGE OF PAGES 1 39	

**IMPORTANT -- The "offer" section on the reverse must be fully completed by offeror.**

4. CONTRACT NO.		5. REQUISITION/PURCHASE REQUEST NO. 1088286	6. PROJECT NO.
7. ISSUED BY USDA ARS PA AAO ACQ/PER PROP 2150 CENTRE AVENUE BLDG D, SUITE 300 FORT COLLINS CO 80526	CODE ARS-12805B	8. ADDRESS OFFER TO	
9. FOR INFORMATION CALL: 		a. NAME DAVID HILDEBRAND	b. TELEPHONE NO. (Include area code) (NO COLLECT CALLS) 3015040334

### SOLICITATION

**NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder."**

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date)

A. Project Title: Install Two Ducts Heaters at the Biosciences Research Lab in Fargo, ND IAW Attachment 1, Statement of Work.

B. Aquisition is a 100% total small business set-aside. Applicable NAICS is 238220-Plumbing, Heating, and Air-Conditioning Contractors. The SBA size standard for this NAICS is \$19.0M.

C. IAW FAR 36.204, the magnitude of this project is between \$25,000 and \$100,000.

D. Vendors shall complete blocks 14, 15, 17 (if applicable), 19 (if any amendments posted), and 20 A-C of this form.

E. Vendors are required to be in an 'Active' status in sam.gov at time of quote submission IAW FAR 52.204-7.

11. The Contractor shall begin performance _____ 0 _____ calendar days and complete it within _____ 120 _____ calendar days after receiving <input checked="" type="checkbox"/> award, <input type="checkbox"/> notice to proceed. The performance period is <input checked="" type="checkbox"/> mandatory <input type="checkbox"/> negotiable. (See _____.)	
12a. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES", indicate within how many calendar days after award in Item 12b.)	12b. CALENDAR DAYS 10
13. ADDITIONAL SOLICITATION REQUIREMENTS:	
a. Sealed offers in original and _____ 1 _____ copies to perform the work required are due at the place specified in Item 8 by _____ 1700 _____ (hour) local time _____ 02/24/2023 _____ (date). If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.	
b. An offer guarantee <input checked="" type="checkbox"/> is, <input type="checkbox"/> is not required.	
c. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.	
d. Offers providing less than _____ 30 _____ calendar days for Government acceptance after the date offers are due will not be considered and will be rejected .	

**OFFER** (Must be fully completed by offeror)

14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)	15. TELEPHONE NO. (Include area code)
	16. REMITTANCE ADDRESS (Include only if different than item 14.)
CODE	FACILITY CODE

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within \_\_\_\_\_ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in item 13d. Failure to insert any number means the offeror accepts the minimum in item 13d.)

**AMOUNTS**

18. The offeror agrees to furnish any required performance and payment bonds.

**19. ACKNOWLEDGEMENT OF AMENDMENTS**

(The offeror acknowledges receipt of amendments to the solicitation -- give number and date of each)

AMENDMENT NO.										
DATE.										
20a. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)					20b. SIGNATURE			20c. OFFER DATE		

**AWARD** (To be completed by Government)

21. ITEMS ACCEPTED:

Continued...

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA	
24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO <input type="checkbox"/> 10 U.S.C. 2304(c) ( ) <input type="checkbox"/> 41 U.S.C. 253(c) ( )
26. ADMINISTERED BY CODE	27. PAYMENT WILL BE MADE BY	

**CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE**

☐ 28. NEGOTIATED AGREEMENT

(Contractor is required to sign this document and return 1 copies to issuing office.)

Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations,

☐ 29. AWARD

(Contractor is not required to sign this document.)

Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.

30a. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)		31a. NAME OF CONTRACTING OFFICER (Type or print) KELLY D. WRIGHT	
30b. SIGNATURE	30c. DATE	31b. UNITED STATES OF AMERICA  BY	31c. DATE

# CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED  
12805B23Q0168

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NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
0001	<p>Delivery: 120 Days After Award Delivery Location Code: ARS-126612 PA RED RIVER VALLEY AGRICULTURAL RE 1616 ALBRECHT BLVD NORTH FARGO ND 58102 US</p> <p>Asset #544200B005 Biosciences Research Laboratory (BRL) facility requires adding (2) duct heaters; one in AHU 5-56 and one in AHU 5-57 IAW Attachment 1, Statement of Work.</p> <p>Period of Performance: 03/01/2023 to 06/30/2023</p>				

**SECTION B- SUPPLIES AND SERVICES AND PRICE/COST****B.1 SCOPE OF CONTRACT**

The Contractor shall furnish all labor, materials, equipment, supplies, transportation, utilities, and supervision for complete construction of the following in accordance with the clauses, specifications, drawings, attachments, and other terms and conditions set forth in the attached scope of work.

**B.2 SCHEDULE OF ITEMS**

<u>Item No.</u>	<u>Description</u>	<u>Price/Cost</u>
0001	Asset # 544200B005 Add Two Duct Heaters, one in AHU-56 and one in AHU-57, at the Biosciences Research Lab in Fargo, ND IAW Attachment 1.	\$ _____

**B.3 Period of Performance**

To be completed 120 days from Receipt of Award

**SECTION C - DESCRIPTION/SPECIFICATION/WORK STATEMENT****C.1 Description of Work**

Please reference Statement of Work in Section J.

**C.2 PERMITS AND LICENSES**

Pursuant to FAR 52.236-7 Permits and Responsibilities, the Contractor shall obtain all required permits, licenses, and authorizations to perform work under this contract and comply with all the applicable Federal, state, and local laws and regulations.

**C.3 DIRECTIVES, INSTRUCTIONS AND REFERENCES**

Only the Contracting Officer shall issue directives/instructions defining the roles and responsibilities and appointment of a Contracting Officer Representative (COR); Location Monitor (LM); Project Manager (PM); Occupational Health & Safety Manager and/or any other functional appointment as deemed necessary for the scope of work.

**C.4 WORK MANAGEMENT**

The Contractor shall manage the total work effort associated with the services required to meet the performance objectives and standards. Such management includes but is not limited to planning, scheduling, cost accounting, report preparation, establishing and maintaining records, and quality control. The Contractor shall provide a staff with the necessary management expertise to assure performance objectives and standards are met.

**C.5 MATERIALS AND EQUIPMENT**

Materials and equipment may not be stored at the jobsite lay down area after work hours unless approved in advance by the Contracting Officer. There will not be office space available at any location. All job site lay down areas are dependent upon the size and location of the work. Job site availability will be identified in the Scope of Work.

**C.6 SERVICE INTERRUPTIONS/UTILITY OUTAGES**

If any utilities or other services must be discontinued (even temporarily) due to scheduled contract work, the Contractor shall notify the Contracting Officer Representative ten calendar days in advance to allow notification of affected tenants and customers. If the discontinued service is due to an emergency breakdown the Contractor shall notify the Contracting Officer Representative as soon as practicable.

At a minimum, include the location of the outage, utilities being affected, duration of outage and any necessary sketches. Once approved, and prior to beginning work on the utility system requiring shut down, attend a pre-outage coordination meeting with the Contracting Officer to review the scope of work and the lock-out/tag-out procedures for worker protection. No work will be performed on energized electrical circuits unless proof is provided that no other means exist.

**C.7 EMPLOYEE REQUIREMENTS**

The Contractor shall provide experienced, qualified, and capable personnel to perform the work in this contract. Personnel shall be fully knowledgeable of all safety and environmental requirements associated with the work they perform. Competent personnel shall be provided as required by each contract.

**C.8 OSHA**

Contractor must maintain a workplace and ensure that workplace conditions conform to applicable OSHA standards.

**C.9 KEY PERSONNEL**

The Contractor shall confirm to the Contracting Officer the List of Key Personnel and their qualifications provided as part of the base contract submittals. The contractor will provide any additional information requested by the Contracting Officer to certify their qualifications. The Contractor shall submit to the Contracting Officer a finalized organization chart showing the lines of authority of key personnel and on-site supervisor(s) for this contract. The chart shall include names of personnel and their position title in this contract. At a minimum it shall identify the Project Manager, the Quality Control Manager, SSHO and onsite supervisors and who they will report directly to for this contract. The Contractor shall identify the personnel able to bind the Contractor contractually.

**C.10 EMPLOYEE REQUIREMENTS**

The Contractor shall provide experienced, qualified, and capable personnel to perform the work in this contract. Personnel shall be fully knowledgeable of all safety and environmental requirements associated with the work they perform. Competent personnel shall be provided as required by the contract. Contractor staff may be required to obtain a USDA Linc Pass badge. Documents need to obtain the Linc Pass shall be provided by the Government after award.

**C.11 EMPLOYEE CONDUCT/REMOVAL OF EMPLOYEES**

Contractor employees and Subcontractor employees shall conduct themselves in a proper, efficient, courteous, and businesslike manner. The Contractor shall remove from the site any individual whose continued employment is deemed by the Contracting Officer to be contrary to the public interest or inconsistent with the best interests of Agricultural Research Service. The Contracting Officers decision is final and not negotiable.

**C.12 STATEMENT OF WORK/SPECIFICATIONS (AGAR 452.211-72) (FEB 1988)**

The Contractor shall furnish the necessary personnel, material, equipment, services, and facilities (except as otherwise specified), to perform the Statement of Work/Specifications referenced in Section J.  
(End of Clause)

**C.13 PERIOD OF PERFORMANCE (AGAR 452.211-74) (FEB 1988)**

The period of performance of this contract is 120 days from Receipt of Order.  
(End of Clause)

**SECTION D - PACKAGING AND MARKING****D.1 (FOR THIS SOLICITATION, THERE ARE NO CLAUSES IN THIS SECTION).****SECTION E - INSPECTION AND ACCEPTANCE****E.1 CLAUSES INCORPORATED BY REFERENCE (52.252-2) (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 address: <http://acquisition.gov>

**I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES**

<b>CLAUSE</b>	<b>TITLE</b>	<b>DATE</b>
52.246-12	Inspection of Construction	AUG 1996
52.246-13	Inspection – Dismantling, Demolition, or Removal of Improvements	AUG 1996

**E.2 INSPECTION AND ACCEPTANCE (AGAR 452.246-70) (FEB 1988)**

- (a) The Contracting Officer or the Contracting Officer's duly authorized representative will inspect and accept the supplies and/or services to be provided under this contract.
- (b) Inspection will be performed at: the location of the project.  
Acceptance will be performed at: See (b) above.

(End of Clause)

**E.3 FINAL INSPECTION**

- (a) A final inspection shall be made only when all the materials have been furnished, all the work has been performed, and all the construction provided for by the contract has been completed in accordance with the terms, conditions, specifications, and drawings set forth in this contract. If, upon examination by the Contracting Officer, his/her designated representative, and Government inspection personnel, the project is determined not sufficiently completed to have warranted a final inspection, the Contractor may be held financially liable for any additional cost of re-inspection when material and workmanship are not ready at the time specified by the Government for project inspection.
- (b) Contractor shall give the Contracting Officer **two (2) business days** advance notice, in writing, of the date the work will be fully completed and ready for final inspection.
- (c) The Contracting Officer will notify the Contractor of any discrepancies and/or omissions noted at the final inspection by providing a "punchlist" as to the discrepancies/omissions, replacement of materials and performance or re-performance of any unsatisfactory work necessary for final acceptance. This notification shall not in any way be deemed an extension of the contract completion date. If all construction required by

the contract is found completed and all contractual documents (i.e. payrolls, shop/as-builts/red-line drawings, release from claims, etc.) have been submitted, the Contracting Officer shall notify the Contractor of such in writing by processing the final payment for the project.

- (d) Acceptance shall be final and conclusive, except for latent defects, fraud, or such gross mistakes as may amount to fraud, or regarding the Government's right under any warranty or guarantee.

#### **E.4 FINAL ACCEPTANCE**

Upon written notification that all deficiencies identified during the final inspection have been corrected, the Contracting Officer will schedule a final acceptance inspection of the work. If all construction required by the contract is determined to be complete and all requisite contract deliverables (e.g., certified payroll records, as-built drawings, warranty documents, etc.) have been submitted and approved by the Government, the Contracting Officer shall notify the Contractor in writing of such acceptance. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

### **SECTION F - DELIVERIES OR PERFORMANCE**

#### **F.1 CLAUSES INCORPORATED BY REFERENCE (FAR 52.252-2) (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 address: <http://acquisition.gov>

#### **F.2 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (FAR 52.211-10) (APR 1984)**

The Contractor shall be required to:

- (a) prosecute the work diligently, and
- (b) complete the entire work ready for use not later than 120 days from receipt of order.

The time stated for completion shall include final cleanup of the premises.

(End of Clause)



## **SECTION G - CONTRACT ADMINISTRATION DATA**

### **G.1 DESIGNATION OF CONTRACTING OFFICER'S REPRESENTATIVE**

A Contracting Officer's Representative (COR) will be designated after contract award. The contractor will be notified by letter of the name and duties of the COR.

### **G.2 CONTRACT CLOSEOUT**

- (a) Closeout Procedures:
  - (1) Comply with provisions in conditions of contract relating to submittals prior to substantial completion, or Owner's use of completed portions of work.
  - (2) Provide submittals required by governing authorities.
- (b) Cleaning:
  - (1) Execute cleaning during progress of work and at completion of work.
  - (2) Reference other specification sections for additional specific work.
  - (3) Maintain premises and public properties free from accumulations of waste, debris, and rubbish caused by operations.
  - (4) At completion of work, remove waste materials, rubbish, tools, equipment, machinery, and surplus materials:
    - a. Clean all sight-exposed surfaces.
    - b. Leave project clean and ready for occupancy or use.
    - c. All floors are to be broom and wet-mop cleaned.
  - (5) Areas disturbed during construction operations shall be restored generally to match conditions existing prior to start of work.
- (c) Project Record Drawings:
  - (1) Maintain documents in clean, dry, legible condition.
  - (2) Always make documents available for inspection by COR, CO, and other individuals as may be designated by the CO.
  - (3) Label each document "Project Record."
  - (4) Keep record documents current.
  - (5) Do not conceal work until required information has been recorded.
  - (6) At completion of work, and before final acceptance, submit as-built drawings in accordance with special contract requirements.
- (d) Operating and Maintenance Manuals:
  - (1) System Demonstration
    - a. Prior to final inspection demonstrate operation of each system to the COR, CO, and other individuals as may be designated by the CO.
    - b. Instruct designated Government personnel in operation, adjustment, and maintenance of equipment and systems, using the operation and maintenance data as the basis of instruction.
  - (2) Warranties and Bonds:
    - a. Submit warranties and maintenance bonds prior to final application for payment.
      - 1. Submit within ten days after date of substantial completion.
      - 2. For items of work delayed materially beyond date of substantial completion, provide updated submittal within ten days after acceptance, listing date of acceptance as start of warranty period.

### **G.3 AS-BUILT DRAWINGS**

On completion of the contract (if required), one set of paper specifications and one print and one plastic reproducible of each of the contract drawings accompanying those specifications shall be neatly and clearly marked in red to show all variations between the construction actually provided and that indicated or specified and delivered to the CO. Where a choice of materials and/or methods is permitted, the as-built drawings shall define the construction actually provided. Representation of such variation shall conform to standard drafting practice and include such supplementary notes, legends and details as may be necessary. The contractor shall stamp the term RECORD DOCUMENTS, date and sign all plastic reproducible, drawings and volumes of marked specifications. Legibility and clear portrayal of the as-built construction and marked prints shall be subject to approval by the Contracting Officer with the recommended approval of the Area Office Engineer.

### **G.4 RELEASE FROM CLAIMS**

The Contractor shall complete and submit a release of all claims against the Government arising under and by virtue of the purchase order, similar to the following with the final invoice/billing request:

For and in consideration for the receipt of final payment in the amount of \$\_\_\_\_\_ under and pursuant to Purchase Order No.\_\_\_\_\_, the undersigned hereby releases the Government from any and all obligations whatsoever arising under said purchase order.

\_\_\_\_\_  
Name, Title, and Signature of Contractor

\_\_\_\_\_  
DATE

### **G.5 SUPPLEMENT TO CHANGES CLAUSE**

The provisions of the Changes Clause (FAR 52.243-5), as applicable, are supplemented as follows:

- a) The contractor shall provide an itemized breakdown or take-off for all charges involving an increase or decrease in the contract price. The proposal shall be in sufficient detail that will enable the Government to determine the reasonableness of the contractor's and subcontractor's cost to do the change. As a minimum, the following shall be shown:
  1. Material quantities and unit prices;
  2. Labor costs (broken down by trades, hours worked, and hourly rate);
  3. Labor burden (Fringe Benefits, Workmen's Compensation, and Public Liability Insurance);
  4. Overhead;
  5. Profit;
  6. FICA, and FUTA employment taxes; and
  7. Sales tax (if any).
- b) On proposals offering a credit for work omitted, deductions for overhead and profit shall also be shown.
- c) If the proposed change will result in an increase or decrease in the contract performance period, the contractor shall state the exact number of days involved. If the proposed change is approved and the Government agrees with the increase or decrease in completion time, the completion date will become a part of the contract modification.
- d) Following (G.6) is a sample format for showing related costs as a result of a change order. A similar sheet shall accompany each written detailed cost breakdown. The sample format is self-explanatory and clearly shows the method for computing overhead, profit, and other items on proposed changes.

**G.6 SUMMARY SHEET FORMAT**

DATE  
 PROJECT  
 LOCATION  
 CONTRACT NUMBER  
 CONTRACTOR  
 CHANGE ORDER NO. \_\_\_\_\_ DESCRIPTION

PRIME CONTRACTOR'S WORK

1. Direct Materials		\$
2. Sales Tax on Materials	_____ % of line 1	\$
3. Direct Labor		\$
4. Insurance, Taxes, and Fringe Benefits	_____ % of line 3	\$
5. Rental Equipment		\$
6. Sales Tax - Rental Equipment	_____ % of line 5	\$
7. SUBTOTAL (lines 1-6)		\$
8. Overhead	_____ % of line 7	\$
9. SUBTOTAL (add lines 7-8)		\$

SUBCONTRACTOR'S WORK

10. Direct Materials		\$
11. Sales Tax on Materials	_____ % of line 10	\$
12. Direct Labor		\$
13. Insurance, Taxes, and Fringe Benefits	_____ % of line 12	\$
14. Rental Equipment		\$
15. Sales Tax - Rental Equipment	_____ % of line 14	\$
16. SUBTOTAL (lines 10-15)		\$
17. Overhead	_____ % of line 16	\$
18. SUBTOTAL (add lines 16-17)		\$
19. Profit	_____ % of line 18	\$
20. SUBTOTAL (add lines 18-19)		\$

SUMMARY

21. Primes Work (from line 9)		\$
22. Subs Work (from line 20)		\$
23. SUBTOTAL (add lines 21-22)		\$
24. Primes Overhead on Sub	_____ % of line 16	\$
25. Primes Profit	_____ % of line 16	\$
26. SUBTOTAL (add lines 23-25)		\$
27. Primes Bond Premium	_____ % of line 26	\$
28. TOTAL Cost		\$

Estimated time extension (if any and justification):

Signature and Title of Preparer

Date

**NOTE:** THE CUMULATIVE TOTAL FOR OVERHEAD AND PROFIT OF ALL SUBCONTRACTORS AND THE PRIME CONTRACTOR SHALL NOT EXCEED 30 PERCENT. FOR PRIME CONTRACTORS WORK ONLY, THE CUMULATIVE TOTAL FOR OVERHEAD AND PROFIT SHALL NOT EXCEED 20 %.

## **G.7 INVOICE PREPARATION AND SUBMISSION**

Based upon acceptance of required contract deliverables, the contractor shall submit an original invoice and one copy to the Contracting Officer and the COR:

The contractor shall include the following information on each invoice in order to be considered a proper invoice:

1. Name and address of contractor.
2. Invoice number and Invoice date.
3. Contract number.
4. Description of work and period of performance.
5. Name, title, phone number, and complete mailing address of official to whom payment is to be sent.
6. Name, title, phone number, and complete mailing address of person to notify in the event of a defective invoice.
7. Taxpayer Identification Number (TIN) and DUNS Number.
8. Invoices must be submitted with ARS-371 and ARS-372, along with certified payroll records, Contractor certification, and updated CPM Schedule.

Once the paper invoice has been approved by the Contracting Officer, the Contractor shall submit the invoice electronically through the U.S. Department of Treasury Invoice Processing Platform (IPP) at [www.ipp.gov](http://www.ipp.gov). This is a mandatory requirement.

## **G.8 Contractor Performance Information and Contractor Performance Assessment Reporting System (CPARS) (FAR 42.1502)**

(a) General. Past performance evaluations shall be prepared at least annually and at the time the work under a contract or order is completed. Past performance evaluations are required for contracts and orders as specified in paragraphs (b) through (f) of this section, including contracts and orders performed outside the United States. These evaluations are generally for the entity, division, or unit that performed the contract or order. Past performance information shall be entered into CPARS, the Government wide evaluation reporting tool for all past performance reports on contracts and orders. Instructions for submitting evaluations into CPARS are available at <http://www.cpars.gov/>

(b) Past performance evaluations shall be prepared for each construction contract of \$700,000 or more, and for each construction contract terminated for default regardless of contract value. Past performance evaluations may also be prepared for construction contracts below \$700,000.

## **SECTION H - SPECIAL CONTRACT REQUIREMENTS**

### **H.1 INSURANCE COVERAGE-ALT 1 (AGAR 452.228-71) (NOV 1996)**

Pursuant to FAR clause 52.228-5, Insurance-Work on a Government Installation, the Contractor will be required to present evidence to show, as a minimum, the amounts of insurance coverage indicated below:

- (a) Workers Compensation and Employer's Liability. The Contractor is required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required, except in States with exclusive or monopolistic funds that do not permit worker's compensation to be written by private carriers.
- (b) General Liability.
  - (1) The Contractor shall have bodily injury liability coverage written on a comprehensive form of policy of at least \$500,000 per occurrence.
  - (2) The Contractor shall have property damage liability insurance shall be required in the amount of \$1.0 million per occurrence.
- (c) Automobile Liability. The Contractor shall have automobile liability insurance written on a comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage or loss.
- (d) Aircraft Public and Passenger Liability. When aircraft are used in connection with performing the contract, the Contractor shall have aircraft public and passenger liability insurance. Coverage shall be at least \$200,000 per person and \$500,000 per occurrence for bodily injury, other than passenger injury. Coverage for passenger injury shall be at least \$200,000 multiplied by the number of seats or passengers, whichever is greater.

(End of Clause)

### **H.2 USE OF PREMISES (AGAR 452.236-72) (NOV 1996)**

Before any camp, quarry, borrow pit, storage, detour, or bypass site, other than shown on the drawings, is opened or operated on USDA land or lands administered by the USDA, the Contractor shall obtain written permission from the Contracting Officer. A camp is interpreted to include the campsite or trailer parking area of any employee working on the project for the Contractor.

Unless accepted elsewhere in the contract, the Contractor shall (i) provide and maintain sanitation facilities for the workforce at the site and (ii) dispose of solid waste in accordance with applicable Federal, State and local regulations.

(End of Clause)

### **H.3 ARCHAEOLOGICAL OR HISTORIC SITES (AGAR 452.236-73) (FEB 1988)**

If a previously unidentified archaeological or historic site(s) is encountered, the Contractor shall discontinue work in the general area of the site(s) and notify the Contracting Officer immediately.

(End of Clause)

**H.4 CONTROL OF EROSION, SEDIMENTATION AND POLLUTION (AGAR 452.236-74) (NOV 1996)**

- (a) Operations shall be scheduled and conducted to minimize erosion of soils and to prevent silting and muddying of streams, rivers, irrigation systems, and impoundments (lakes, reservoirs, etc.)
- (b) Pollutants such as fuels, lubricants, bitumens, raw sewage, and other harmful materials shall not be discharged on the ground; into or nearby rivers, streams, and impoundments; or into natural or man-made channels. Wash water or waste from concrete or aggregate operations shall not be allowed to enter live streams prior to treatment by filtration, settling, or other means sufficient to reduce the sediment content to not more than that of the stream into which it is discharged.
- (c) Mechanized equipment shall not be operated in flowing streams without written approval by the Contracting Officer.

(End of Clause)

**H.5 MAXIMUM WORKWEEK - CONSTRUCTION SCHEDULE (AGAR 452.236-75) (NOV 1996)**

Within 10 (ten) calendar days after receipt of a written request from the Contracting Officer, the Contractor must submit the following information in writing for approval:

A schedule as required by FAR clause 52.236-15, "Schedules for Construction Contracts" and

The hours (including the daily starting and stopping times) and days of the week the Contractor proposes to carry out the work.

The maximum workweek that will be approved is 8:00 a.m. to 4:30 p.m., Mon. thru Fri., excluding Federal holidays.

**MAXIMUM WORKWEEK - CONSTRUCTION SCHEDULE (SUPPLEMENT)**

The following applies to all work performed on Government-owned property:

- (a) Listed below are official Government holidays:

New Year's Day	January 1*
Birthday of Martin Luther King	Third Monday in January
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth	June 19*
Independence Day	July 4*
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans Day	November 11*
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25*
Inauguration Day	January 20* (for Washington D.C. Metropolitan Area (WDCMA))

\*In accordance with Federal regulations, if these holidays fall on a Saturday, the holiday will be observed on Friday, if Sunday, holiday will be observed on Monday.

The contractor will be required to follow Government procedures for any unscheduled shut down of the Government installation due to weather conditions, security, Government identified emergency health and safety evacuation, etc.

(b) **SEVERE WEATHER WARNING REQUIREMENTS:** When a severe weather warning has been issued for the area in which construction is being performed, the contractor shall immediately take action to tie down, or otherwise secure structures, materials, and equipment on the job site that could become airborne as a result of strong winds, thunderstorms, rain or other weather related conditions, including protection from extreme or extended periods of cold or heat. These requirements are applicable 24 hours a day, 7 days a week.

(c) **WORK OUTSIDE REGULAR HOURS:** If the contractor desires to work outside regular hours, or on Saturday, Sunday, or Federal legal holidays, he shall submit a written request to the CO/COR 5 working days in advance to allow ample time for approval or disapproval and to enable satisfactory arrangements to be made for security, safety, and inspecting the work progress.

In cases where the contractor receives approval to work outside of normal working hours for his convenience, cost incurred by the contractor for overtime and additional cost incurred by the Government for services including inspection costs shall be borne by the contractor.

(End of Clause)

#### **H.6 SAMPLES AND CERTIFICATES (AGAR 452.236-76) (FEB 1988)**

When required by the specifications or the Contracting Officer, samples, certificates, and test data shall be submitted after award of the contract, prepaid, in time for proper action by the Contracting Officer or his/her designated representative. Certificates and test data shall be submitted in triplicate to show compliance of materials and construction specified in the contract performance requirements.

Samples shall be submitted in duplicate by the Contractor, except as otherwise specified, to show compliance with the contract requirements. Materials or equipment for which samples, certifications or test data are required shall not be used in the work until approved in writing by the Contracting Officer.

(End of Clause)

#### **H.7 KEY PERSONNEL (AGAR 452.237-74) (FEB 1988)**

(a) The Contractor shall assign to this contract the following key personnel: **SITE SUPERINTENDENT**

(b) During the first ninety (90) days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial 90-day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. The contract will be modified to reflect any approved changes of key personnel.

(End of Clause)

## H.8 SUBMITTALS AND SHOP DRAWINGS

- a. The Contractor shall submit for approval (if required), copies (minimally) of shop drawings of all manufactured products required in the construction for which such drawings are required. When approved, the Government will forward one set to the Contracting Officer's Representative (COR), one set to the Construction Manager (CM), and one set to the Contractor. If the Contractor requires more than one approved set, additional copies of this document must be forwarded in the number needed.
- b. Shop drawings and submittals shall be marked with the Purchase Order Number, Project Description, Name of the Contractor, and accompanied by a letter of transmittal. If the shop drawings show variations from the purchase order requirements because of standard shop practice or other reasons, the Contractor shall make specific mention of such variations in his/her letter of transmittal or directly on the drawing/submittal.
- c. Approval of shop drawings will be general and will not relieve the Contractor of the responsibility of furnishing material and work required by the purchase order.
- d. Shop drawings shall be submitted for approval in ample time to permit checking of the drawings, allow the Contractor to make any corrections and resubmit drawings prior to the time construction is started on work covered by any drawings.
- e. Non-approval of equipment due to failure to meet specifications or non-approval of the Contractor's drawings due to submission of incomplete or incorrect information shall not be considered as a basis for extension of time for completion of the purchase order.
- f. The quantity of shop drawings required may be subject to change due to construction management surveillance needs and/or the complexity of the project. Quantities of shop drawings and submittals will be finalized at the preconstruction conference.

## H.9 CONSTRUCTION PROGRESS AND PAYMENT SCHEDULE

Within 14 (fourteen) calendar days after the date of receipt of contract, the Contractor shall prepare and submit to the Contracting Officer for approval and signature, a copy of ARS Form 371, "Construction Progress and Payment Schedule." This form, in conjunction with ARS Form 372, "Contractor's Request for Payment Transmittal" (or an acceptable facsimile), will be the basis for partial payments to the Contractor. The values employed in making the schedule will be used only for determining partial payments and will not be considered as fixing a basis for additions to or deductions from the purchase order. Upon the Contracting Officer's approval and signature, a copy of the Form 371 (with original signatures) will be given to the Contractor. No work may be performed onsite unless and until the ARS Form 371 has been approved by the Contracting Officer. The ARS Form 371 is required even though progress or partial payments would not be requested by the Cooperator.

## H.10 INVOICES

Invoices shall be submitted to the attention of the Contracting Officer Representative who will forward them to the Contracting Officer. Invoices shall contain, at a minimum, the name of the Company; Purchase Order/Contract Number; description of services, price for such services rendered; shipping and payment terms; and name (where practicable), title, phone number and complete mailing address of responsible official to whom payment is to be sent. For invoices to be processed, certified payroll records must have been received by the Contracting Officer for the period being invoiced. **NO INVOICES WILL BE PROCESSED UNLESS CURRENT CERTIFIED PAYROLL RECORDS ARE ON FILE WITH THE CONTRACTING OFFICER IN ACCORDANCE WITH THE CONSTRUCTION WAGE RATES REQUIREMENT.** All invoices will be returned to the Contractor without payment action until payroll records are received by the Contracting Officer. The final invoice shall include a Release of Claims Form as shown in Section G.4 of the contract.



**H.11 AS-BUILT DRAWINGS AND OPERATIONS AND MAINTENANCE MANUALS**

Upon completion of the Contract, the Contractor shall submit to the Contracting Officer two (2) sets of neatly marked (in red) and labeled "As-Built" drawings and shall also submit three (3) copies of each Operations and Maintenance Manuals for any and all equipment furnished and/or installed by the Contractor under this contract. Final payment shall not be made unless and until such documentation is received and accepted by the Contracting Officer. Unless As-Builts are not required.

**H.12 LIST OF MATERIALS**

- (a) The Contractor shall submit for approval a complete list electronically, in .pdf or MS Office format, of brands, type, and make of various equipment and materials proposed to be used. If the Contractor fails to submit such a list, or names of equipment which does not comply with the specifications, or if the manufacturers named aren't satisfactory, the Government reserves the right to reject same and to select satisfactory substitute materials. This selection shall be final and finding upon the Contractor, and the work shall be installed on this basis without change in contract price.
- (b) In order to properly identify and to prove compliance with the requirements of the specifications, the Contractor shall give the following data for each product included in the list of materials.
  - Section heading of the specifications under which material is specified.
  - Manufacturer's name and address.
  - Grade, type, trade or catalog number.
  - Size, capacity, and other pertinent data.
- (c) All materials, fixtures, and equipment furnished and installed under this contract shall be new and of the best quality; shall be standard cataloged products or reputable manufacturers products or of special manufacture, satisfying completely the contract requirements.
- (d) Similar items, unless otherwise specified herein or approved by the Contracting Officer, shall be the product of the same manufacturer, and those fulfilling the same requirements as to size and construction shall be identical.
- (e) Substitutions and/or Approved Equal: Where particular make, brand or type of material or equipment is mentioned in these specifications, it is to denote quality standard of article desired, but does not restrict contractor to brand specified; however, any substitution must be met with approval of the Contracting Officer. Other products comparable in type, quality, utility, and price are acceptable if approved by the Contracting Officer. Burden of proof of equality shall rest with the Contractor. The Contracting Officer shall be sole judge of paralleled quality.

**H.13 COOPERATION WITH OTHER CONTRACTORS**

During the period of construction for the work covered by this contract, other contractors performing work for the Government may be operating concurrently at the site. To minimize interference and delay to the construction progress of all concerned, all contractors shall cooperate with each other and coordinate their construction operations to the fullest extent. As far as practicable, all contractors performing work for the Government at the site shall have equal rights to the use of all referenced facilities. In a dispute regarding the use of such facilities, the matter shall be referred to the Contracting Officer.

**H.14 PROPERTY DAMAGE LIABILITY INSURANCE**

The Contractor shall ensure that the property damage liability insurance policy (or rider) required by FAR 52.228-5, Insurance—Work on a Government Installation, is in full compliance with all the terms and conditions of this contract. The policy shall not contain any exclusions or exceptions that would limit or adversely affect the Government's rights and remedies under any other clause in this contract or other Federal regulation or law.

Should there be any exclusions or exceptions contained in the policy that limits or adversely affects the Government's rights, the Contractor shall be responsible for the full amount of any damages that occur to the immediate facilities, adjacent facilities/property, and other Government property under the control of the Contractor due to fraud, negligence, vandalism, willful misconduct, or violation of Federal, state, or local safety regulations, building codes and laws. The Contractor shall have full responsibility and is liable for these facilities and properties until the Government has accepted the contract as being completed in full and a release from claims has been received from the Contractor.

For those areas where the Government has taken "beneficial occupancy" prior to completion and acceptance of the whole contract, the contractor shall not be responsible for those specific areas under Government control, except in such instances where damage occurs to those areas as a result of negligence, fraud, vandalism, willful misconduct, or violation of Federal, state, or local safety regulations, building codes, or laws in those areas under the control of the Contractor.

This liability and responsibility includes the activities of all the Contractor's personnel, their subcontractors and suppliers.

#### **H.15 SUBCONTRACTORS, OUTSIDE ASSOCIATES AND CONSULTANTS**

Any subcontractors, outside associates or consultants required by the Contractor in connection with the services covered by the contract will be limited to individuals or firms that were specifically identified at time of award or agreed upon during negotiations. The Contractor shall obtain the Contracting Officer's written consent before making any substitution for these individuals or firms.

#### **H.16 Energy Efficiency**

As required in clause 52.223-15 Energy Efficiency in Energy-Consuming Products, the contractor shall only provide products that earn the ENERGY STAR label and meet ENERGY STAR specifications for energy efficiency. The contractor is encouraged to visit <http://www.energystar.gov> for complete product specifications and updated lists of qualifying products."

#### **H.17 PROHIBITION AGAINST THE USE OF LEAD-BASED PAINT (AGAR 452.236-71) (NOV 1996)**

Neither the Contractor nor any subcontractor performing under this contract shall use paints containing more than 0.06 of 1 percent lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.  
(End of Clause)

#### **H.18 BIOBASED PRODUCTS REQUIREMENTS**

This procurement requires the use of biobased products to the extent that such products are reasonably available, meet agency or relevant industry performance standards, and are reasonably priced. Where available, these products should first be acquired from among qualified products that fall under the umbrella of items designated through the USDA BioPreferred SM Program.

The Contractor must comply with the Farm Security and Rural Investment Act of 2002 (FSRIA), 7 U.S.C. 8102; the Food, Conservation and Energy Act of 2008 (FCEA), 7 U.S.C. 8102; the Federal Acquisition Regulation; Executive Order (EO) 13514, "*Federal Leadership in Environmental, Energy and Economic Performance*," dated October 5, 2009; EO 13423, "*Strengthening Federal Environmental, Energy, and Transportation Management*,"

dated January 24, 2007; and Presidential Memorandum, *“Driving Innovation and Creating Jobs in Rural America through Biobased and Sustainable Product Procurement,”* dated February, 2012 to provide biobased products.

The Contractor shall utilize products and material made from biobased materials (e.g. biobased greases; biobased hydraulic fluids, biobased absorbents) to the maximum extent possible without jeopardizing the intended end use or detracting from the overall quality delivered to the end user. All supplies and materials shall be of a type and quality that conform to applicable Federal specifications and standards. All supplies and materials to be used in the performance of work described herein are subject to the approval of the Contracting Officer Representative (COR).

The following is an example list of products that may be used in this minor construction contract for which biobased products are available and the designated biobased content. The list is not all inclusive. It is desirable that vendors be able to supply the greatest number of biobased products listed meeting the health and environmental specifications.

Adhesive and Mastic Removers – 58 percent

Asphalt and Tar Removers - 80 percent

Asphalt Restorers – 68 percent

Carpet – 7 percent

Carpet and Upholstery Cleaners – 54 percent and Spot Removers – 7 percent

Composite Panels – Acoustical – 37 percent; Interior Panels – 55 percent; Plastic Lumber – 23 percent;

Structural Interior Panels – 89 percent; Structural Wall Panels – 94 percent and Countertops and Solid Surface - \_ 89 percent

Concrete and Asphalt Cleaners – 70 percent

Concrete and Asphalt Release Fluids – 87 percent

Dust Suppressants – 85 percent

Erosion Control Materials – 77 percent

Floor Coverings (Non Carpet) – 91 percent

General Purpose Cleaners - 54 percent

Hand Soaps and Cleaners – 64 percent

Industrial Cleaners – 41 percent

Insulating Foam – 7 percent

Leather, Vinyl, and Rubber Care Products – 55 percent

Paint- Interior Paints and Coatings, Latex – 20 percent and Oil-based – 67 percent

Paint Removers – 41 percent

Roof Coatings – 20 percent

Wastewater Systems Coatings –47 percent

Reporting is required by Sections 9002 of the Food Conservation and Energy Act of 2008 and the Agricultural Act of 2014. The Contractor shall provide quantities, product types and dollar value of any USDA-designated biobased product purchased by the Contractor. This important data shall be submitted to the COR for the current quarter and current contract year. A brief explanation shall include the methodology used to calculate the dollar value of USDA-designated products used or supplied.

The Contractor should also note that USDA-designated biobased products are available for purchase through the AbilityOne Program (formerly known as the Javits- Wagner-O’Day (JWOD) Program). Under this program, members of organizations including the National Industries for the Blind (NIB) and the National Institute for the Severely Disabled (SourceAmerica) offer products and services that are mandatory by Federal agencies. A search of the AbilityOne Program’s online catalog ([www.ability.gov](http://www.ability.gov)) indicated biobased products that include but are not limited to: cleaners (glass, hand, and multipurpose), graffiti removers, and sorbents.

End of this section

## **PART II - CONTRACT CLAUSES**

### **SECTION I – CONTRACT CLAUSES**

#### **I.1 CLAUSES INCORPORATED BY REFERENCE (FAR 52.252-2) (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 address: <http://acquisition.gov>

<b>CLAUSE</b>	<b>TITLE</b>	<b>DATE</b>
52.202-1	Definitions	JUN 2020
52.204-13	System for Award Management Maintenance	OCT 2018
52.204-18	Commercial and Government Entity Code Maintenance	AUG 2020
52.204-19	Incorporation by Reference of Representations and Certifications	DEC 2014
52.204-23	Prohibition on Contracting for Hardware, Software, and Services or Provided by Kaspersky Lab and Other Covered Entities	NOV 2021
52.204-25	Prohibition on Contracting for Certain Telecommunications and Surveillance Services or Equipment	NOV 2021
52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment	NOV 2021
52.209-10	Prohibition on Contracting With Inverted Domestic Corporations	NOV 2015
52.213-4	Terms and Conditions-Simplified Acquisitions (Other Than Commercial Items)	JAN 2022
52.222-3	Convict Labor	JUN 2003
52.222-6	Construction Wage Rate Requirements	AUG 2018
52.222-7	Withholding of Funds	MAY 2014
52.222-8	Payrolls and Basic Records	JUL 2021
52.222-9	Apprentices and Trainees	JUL 2005
52.222-10	Compliance with Copeland Act Requirements	FEB 1988
52.222-11	Subcontracts (Labor Standards)	MAY 2014
52.222-12	Contract Termination-Debarment	MAY 2014
52.222-13	Compliance with Construction Wage Rate Requirements and Related Regulations	MAY 2014
52.222-14	Disputes Concerning Labor Standards	FEB 1988
52.222-15	Certification of Eligibility	MAY 2014
52.222-21	Prohibition of Segregated Facilities	APR 2015
52.222-26	Equal Opportunity	SEP 2016
52.222-27	Affirmative Action Compliance Requirements for Construction	APR 2015
52.222-30	Construction Wage Rate Requirements- Price Adjustment (None or Separately Specified Method)	AUG 2018
52.222-50	Combating Trafficking in Persons	NOV 2021
52.222-55	Minimum Wages Under Executive Order 13658	JAN 2022
52.222-62	Paid Sick Leave Under Executive Order 13706	JAN 2022
52.223-2	Affirmative Procurement of Biobased Products Under Service and Construction Contracts	SEP 2013

CLAUSE	TITLE	DATE
52.223-5	Pollution Prevention and Right-to-Know Information	MAY 2011
52.223-6	Drug-Free Workplace	MAY 2001
52.225-13	Restrictions on Certain Foreign Purchases	FEB 2021
52.228-2	Additional Bond Security	OCT 1997
52.228-5	Insurance-Work on a Government Installation	JAN 1997
52.228-14	Irrevocable Letter of Credit	NOV 2014
52.228-15	Performance and Payment Bonds-Construction	JUN 2020
52.232-5	Payments Under Fixed-Price Construction Contracts	MAY 2014
52.232-16	Progress Payments	NOV 2021
52.232-17	Interest	MAY 2014
52.232-23	Assignment of Claims	MAY 2014
52.232-27	Prompt Payment for Construction Contracts	JAN 2017
52.232-33	Payment by Electronic Funds Transfer-System for Award Management	OCT 2018
52.232-39	Unenforceability of Unauthorized Obligations	JUN 2013
52.232-40	Providing Accelerated Payments to Small Business Subcontractors	NOV 2021
52.233-1	Disputes	MAY 2014
52.233-3	Protest after Award	AUG 1996
52.233-4	Applicable Law for Breach of Contract Claim	OCT 2004
52.236-2	Differing Site Conditions	APR 1984
52.236-3	Site Investigation and Conditions Affecting the Work	APR 1984
52.236-5	Material and Workmanship	APR 1984
52.236-6	Superintendence by the Contractor	APR 1984
52.236-7	Permits and Responsibilities	NOV 1991
52.236-8	Other Contracts	APR 1984
52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements	APR 1984
52.236-10	Operations and Storage Areas	APR 1984
52.236-11	Use and Possession Prior to Completion	APR 1984
52.236-12	Cleaning Up	APR 1984
52.236-13	Accident Prevention	NOV 1991
52.236-14	Availability and Use of Utility Services	APR 1984
52.236-15	Schedules for Construction Contracts	APR 1984
52.236-17	Layout of Work	APR 1984
52.236-21	Specifications and Drawings for Construction	FEB 1997
52.236-26	Preconstruction Conference	FEB 1995
52.243-5	Changes and Changed Conditions	JUN 2007
52.244-6	Subcontracts for Commercial Items (Deviation)	JAN 2022
52.246-12	Inspection of Construction	AUG 1996
52.246-21	Warranty of Construction	MAR-1994
52.249-1	Termination for Convenience of the Government (Fixed-Price)(Short)	APR 1984
52.249-10	Default (Fixed-Price Construction)	APR 1984

**Note:** In addition to the requirements of FAR 52.223-2; The contractor shall report to the environmental point of contact, with a copy to the Contracting Officer, on the product types and dollar value of any USDA-designated biobased products purchased by the contractor during the previous fiscal year.

- The report must be submitted no later than October 31 of each year during contract performance and at the end of contract performance.

- The environmental point of contact for all USDA Agencies is:  
Karen Zhang  
[Karen.Zhang@dm.usda.gov](mailto:Karen.Zhang@dm.usda.gov)  
Phone: 202-401-4747
- Biobased reporting shall be completed by following the instructions provided in the [System for Award Management\(SAM\)](#).

## I.2 BUY AMERICAN - CONSTRUCTION MATERIALS (FAR 52.225-9) (NOV 2021)

(a) *Definitions.* As used in this clause—

*Commercially available off-the-shelf (COTS) item—*

(1) Means any item of supply (including construction material) that is—

(i) A commercial item (as defined in paragraph (1) of the definition at Federal Acquisition Regulation (FAR) [2.101](#));

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

*Cost of components means—*

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

*Domestic construction material means—*

(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 55 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

(B) The construction material is a COTS item; or

(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of foreign iron and steel constitutes less than 5 percent of the cost of all components used in such construction material. The cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the construction material and a good faith estimate of the cost of all foreign iron or steel components excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of "cost of components".

*Fastener* means a hardware device that mechanically joins or affixes two or more objects together. Examples of fasteners are nuts, bolts, pins, rivets, nails, clips, and screws.

*Foreign construction material* means a construction material other than a domestic construction material.

*Foreign iron and steel* means iron or steel products not produced in the United States. Produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving refinement of steel additives. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign.

*Predominantly of iron or steel or a combination of both* means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.

*Steel* means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.

"United States" means the 50 States, the District of Columbia, and outlying areas.

(b) Domestic preference.

(1) This clause implements [41 U.S.C. chapter 83](#), Buy American, by providing a preference for domestic construction material. In accordance with [41 U.S.C. 1907](#), the domestic content test of the Buy American statute is waived for construction material that is a COTS item, except that for construction material that consists wholly or predominantly of iron or steel or a combination of both, the domestic content test is applied only to the iron and steel content of the construction materials, excluding COTS fasteners. (See FAR [12.505\(a\)\(2\)](#)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows:

NONE

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that-

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;

(ii) The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American statute.

(1) (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including-

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.



(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.

(d) *Data*. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON			
Construction Material Description	Unit of Measure	Quantity	Price (Dollars)*
<i>Item 1:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
<i>Item 2:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

*[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]*

*[Include other applicable supporting information.]*

*[\* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]*

(End of Clause)

**I.3 POSTAWARD CONFERENCE (AGAR 452.215-73) (NOV 1996)**

A post award conference with the successful offeror is required. It will likely be scheduled within 3 days after the date of contract award. The conference will be held via teleconference.

(End of Clause)

**I.4 SIZE STANDARD AND NAICS CODE INFORMATION (AGAR 452.219-70) (SEP 2001)**

The North American Industrial Classification System Code(s) and business size standard(s) describing the products and/or services to be acquired under this solicitation are listed below:

**Contract line item(s): 0001**

**NAICS Code: 238220**

**Size Standard: \$19.0M**

(End of provision)

**I.5 REIMBURSEMENT FOR BOND PREMIUMS--FIXED-PRICE CONSTRUCTION CONTRACTS AGAR 452.232-70) (NOV 1996)**

The contract price includes the total amount for premiums that the contractor attributes to the furnishing of performance and payment bonds required by the contract. Reimbursement for bond premiums under the clause at FAR 52.232-5, Payments under Fixed-Price Construction Contracts, shall not cover any amount therefor not included in the contract price.

**PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS****SECTION J – LIST OF ATTACHMENTS****J.1 LIST OF ATTACHMENTS**

<b><u>ATTACHMENT NO.</u></b>	<b><u>TITLE</u></b>
Attachment 1	Statement of Work
Attachment 2	Wage Determination ND20230013 Mod 1 Dated 13 January 2023
Attachment 3	ARS 371 Construction Progress and Payment Schedule
Attachment 4	ARS 372 Request for Payment

**PART IV – REPRESENTATION AND INSTRUCTIONS****SECTION K - REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS****K.1 PROVISIONS INCORPORATED BY REFERENCE (FAR 52.252-1) (FEB 1998)**

This solicitation incorporates one or more solicitation provisions 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. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this address:

<https://www.acquisition.gov>

<b>Provision</b>	<b>TITLE</b>	<b>DATE</b>
52.203-18	Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements - Representation	JAN 2017
52.204-26	Covered telecommunications Equipment or Services- Representation	OCT 2020
52.209-2	Prohibition On Contracting With Inverted Domestic Corporations-- Representation	NOV 2015
52.222-23	Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity for Construction	FEB 1999
52.222-38	Compliance with Veterans' Employment Reporting Requirements	FEB 2016
52.223-1	Biobased Product Certification	MAY 2012
52.223-4	Recovered Material Certification	MAY 2008

**K.2 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (FAR 52.204-8) (MAR 2020)**

(a)

- (1) The North American Industry Classification System (NAICS) code for this acquisition is 238220.
- (2) The small business size standard is \$19.0M
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is N/A.

(b)

- (1) If the provision at 52.204-7, System for Award Management, is included in this solicitation, paragraph (d) of this provision applies.
- (2) If the provision at 52.204-7, System for Award Management, is not included in this solicitation, and the Offeror has an active registration in the System for Award Management (SAM), the Offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:

☐ (i) Paragraph (d) applies.

☐ (ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(b) (c)

- (1) The following representations or certifications in SAM are applicable to this solicitation as indicated:
  - (i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—
    - (A) The acquisition is to be made under the simplified acquisition procedures in Part 13;

- (B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or
- (C) The solicitation is for utility services for which rates are set by law or regulation.
- (ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.
- (iii) 52.203-18, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements— Representation. This provision applies to all solicitations.
- (iv) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the provision at 52.204-7, System for Award Management.
- (v) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that—
  - (A) Are not set aside for small business concerns;
  - (B) Exceed the simplified acquisition threshold; and
  - (C) Are for contracts that will be performed in the United States or its outlying areas.
- (vi) 52.204-26, Covered Telecommunications Equipment or Services—Representation. This provision applies to all solicitations.
- (vii) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation.
- (viii) 52.209-5; Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.
- (ix) 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.
- (x) 52.214-14, Place of Performance--Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.
- (xi) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.
- (xii) 52.219-1, Small Business Program Representations (Basic, Alternates I, and II). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.
  - (A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.
  - (B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.
  - (C) The provision with its Alternate II applies to solicitations that will result in a multiple-award contract with more than one NAICS code assigned.
- (xiii) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.
- (xiv) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.
- (xv) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.
- (xvi) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.
- (xvii) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.
- (xviii) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA- designated items.
- (xix) 52.223-22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation. This provision applies to solicitation that include the clause at 52.204-7.
- (xx) 52.225-2, Buy American Certificate. This provision applies to solicitations containing the clause at

52.225-1.

(xxi) 52.225-4, Buy American--Free Trade Agreements--Israeli Trade Act Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at 52.225- 3.

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$83,099, the provision with its Alternate II applies.

(D) If the acquisition value is \$83,099 or more but is less than \$100,000, the provision with its Alternate III applies.

(xxii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.

(xxiii) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan--Certification. This provision applies to all solicitations.

(xxiv) 52.225-25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certification. This provision applies to all solicitations.

(xxv) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions.

(2) The following representations or certifications are applicable as indicated by the Contracting Officer:

☒ (i) 52.204-17, Ownership or Control of Offeror.

☒ (ii) 52.204-20, Predecessor of Offeror.

☒ (iii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.

☐ (iv) 52.222-48, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Certification.

☐ (v) 52.222-52 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services--Certification.

☐ (vi) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).

☐ (vii) 52.227-6, Royalty Information.

☐ (A) Basic.

☐ (B) Alternate I.

☐ (viii) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

(c) The Offeror has completed the annual representations and certifications electronically in SAM accessed through <https://www.sam.gov>. After reviewing the SAM information, the Offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause	Title	Date	Change

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on SAM.

(End of Provision)

### K.3 SMALL BUSINESS PROGRAM REPRESENTATIONS (FAR 52.219-1) (MAR 2020)

(a) *Definitions.* As used in this provision--

“Economically disadvantaged women-owned small business (EDWOSB) concern” means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

“Service-disabled veteran-owned small business concern”--

(1) Means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) “Service-disabled veteran” means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

“Small business concern” means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (b) of this provision.

“Small disadvantaged business concern, consistent with 13 CFR 124.1002,” means a small business concern under the size standard applicable to the acquisition, that--

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by--

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States, and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13 CFR 124.106) by individuals who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

“Veteran-owned small business concern” means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned small business concern” means a small business concern--

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

“Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with 13 CFR part 127),” means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(b)

(1) The North American Industry Classification System (NAICS) code for this acquisition is 238220

(2) The small business size standard is \$16.5M

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture (i.e., nonmanufacturer), is 500 employees.

(c) *Representations.*

(1) The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) *[Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents that it ☐ is, ☐ is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) *[Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents as part of its offer that it ☐ is, ☐ is not a women-owned small business concern.

(4) Women-owned small business (WOSB) concern eligible under the WOSB Program. *[Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(3) of this provision.]* The offeror represents as part of its offer that--

- (i) It ☐ is, ☐ is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and
  - (ii) It ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(4)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. *[The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture:\_\_\_\_\_.]* Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.
- (5) Economically disadvantaged women-owned small business (EDWOSB) concern. *[Complete only if the offeror represented itself as a women-owned small business concern eligible under the WOSB Program in (c)(4) of this provision.]* The offeror represents as part of its offer that--
- (i) It ☐ is, ☐ is not an EDWOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and
  - (ii) It ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(5)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. *[The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture:\_\_\_\_\_.]* Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.
- (6) *[Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.
- (7) *[Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(6) of this provision.]* The offeror represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.
- (8) *[Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents, as part of its offer, that --
- (i) It ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR part 126; and
  - (ii) It ☐ is, ☐ is not a HUBZone joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (c)(8)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. *[The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture:\_\_\_\_\_.]* Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(d) Notice.

- (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.
- (2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a business concern that is small, HUBZone small, small disadvantaged, service-disabled veteran-owned small, economically disadvantaged women-owned small, or women-owned small eligible under the WOSB Program in order to obtain a contract to be awarded under the preference programs established pursuant to section 8, 9, 15, 31, and 36 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall --

- (i) Be punished by imposition of fine, imprisonment, or both;
- (ii) Be subject to administrative remedies, including suspension and debarment; and
- (iii) Be ineligible for participation in programs conducted under the authority of the Act.

(End of Provision)



#### K.4 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS

The offeror represents that --

- (a) It ☐ has, ☐ has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;
- (b) It ☐ has, ☐ has not filed all required compliance reports; and
- (c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of Provision)

#### K.5 NOTICE OF BUY AMERICAN REQUIREMENT – CONSTRUCTION MATERIALS (FAR 52.225-10) (MAY 2014)

(a) *Definitions.* “Commercially available off-the-shelf (COTS) item,” “construction material,” “domestic construction material,” and “foreign construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Buy American--Construction Materials” (Federal Acquisition Regulation (FAR) clause [52.225-9](#)).

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American statute should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR [52.225-9](#) in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American statute before submitting its offer or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers.*

- (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American statute, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR [52.225-9](#).
- (2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) *Alternate offers.*

- (1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR [52.225-9](#), the offeror also may submit an alternate offer based on use of equivalent domestic construction material.
- (2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR [52.225-9](#) for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.
- (3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR [52.225-9](#) does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested—
  - (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
  - (ii) May be accepted if revised during negotiations. (End of provision)

## **K.6 NOTICE OF BUY AMERICAN REQUIREMENT – CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (FAR 52.225-12) (MAY 2014)**

(a) *Definitions.* “Commercially available off-the-shelf (COTS) item,” “construction material,” “designated country construction material,” “domestic construction material,” and “foreign construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Buy American--Construction Materials Under Trade Agreements” (Federal Acquisition Regulation (FAR) clause 52.225-11).

(b) *Requests for determination of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American statute should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-11 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American statute before submitting its offer or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers.*

(1) The Government will evaluate an offer requesting exception to the requirements of the Buy American statute, based on claimed unreasonable cost of domestic construction materials, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(4)(i) of FAR clause 52.225-11.

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) *Alternate offers.*

(1) When an offer includes foreign construction material, other than designated country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-11, the offeror also may submit an alternate offer based on use of equivalent domestic or designated country construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-11 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material, and the offeror shall be required to furnish such domestic or designated country construction material. An offer based on use of the foreign construction material for which an exception was requested--

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of provision)

## **K.7 BIOBASED PRODUCT CERTIFICATION (52.223-1) (May 2012)**

As required by the Farm Security and Rural Investment Act of 2002 and the Energy Policy Act of 2005 (7 U.S.C. 8102(c)(3)), the offeror certifies, by signing this offer, that biobased products (within categories of products listed by the United States Department of Agriculture in 7 CFR part 3201, subpart B) to be used or delivered in the performance of the contract, other than biobased products that are not purchased by the offeror as a direct result of this contract, will comply with the applicable specifications or other contractual requirements.

## **K.8 REPS AND CERTS**

The offeror shall ensure that their business has completed their online Representations and Certifications at the System and Awards Management (SAM) website which may be found at <https://www.sam.gov/portal/public/SAM/>. It is the Offeror's responsibility to ensure that the information provided in each certification/representation is completed truthfully and completely. Failure of an Offeror to complete their online certification/representations prior to the close of the Solicitation (to include listing of the applicable NAICS code, “active status”, or applicable size standards) will result in their offer being deemed non-responsive and eliminated from consideration of the award.

**SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICE TO OFFERORS****L.1 PROVISIONS INCORPORATED BY REFERENCE (FAR 52.252-1) (FEB 1998)**

This solicitation incorporates one or more solicitation provisions 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. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this address:

<https://www.acquisition.gov>

CLAUSE	TITLE	DATE
52.204-7	System for Award Management	OCT 2018
52.204-24	Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment	OCT 2020
52.204-26	Covered Telecommunications Equipment or Services	OCT 2020
52.215-1	Instructions to Offerors-Competitive Acquisition	JAN 2017
52.222-5	Construction Wage Rate Requirements – Secondary Site of Work	MAY 2014

**L.2 TYPE OF CONTRACT (FAR 52.216-1) (APR 1984)**

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

(End of Provision)

**L.3 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (FAR 52.222-23) (FEB 1999)**

(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance requirement for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation in each trade	Goals for female participation in each trade
ALL	ALL
<b><u>5.3%</u></b>	<b><u>6.9%</u></b>

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the Federal Register in notice form, and these notices may be obtained for any Office of Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on

(1) is implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirement for Construction," and

(2) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the Director, Office of Federal Contract Compliance Programs, within 10 working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the --

- (1) Name, address, and telephone number of the subcontractor;
- (2) Employer's identification number of the subcontractor;
- (3) Estimated dollar amount of the subcontract;
- (4) Estimated starting and completion dates of the subcontract; and
- (5) Geographical area in which the subcontract is to be performed.

(f) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is the city in which the contract is issued for work.

(End of Provision)

#### **L.4 BID GUARANTEE (FAR 52.228-1) (APR 1984)**

(a) Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, *e.g.*, bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds-

- (1) To unsuccessful bidders as soon as practicable after the opening of bids; and
- (2) To the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

(c) **The amount of the bid guarantee shall be 20% percent of the bid price or \$100,000.00, whichever is less.**

(d) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or furnish executed bond(s) within 10 days after receipt of the forms by the bidder, the Contracting Officer may terminate the contract for default.

(e) In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference.

(End of clause)

**L.5 SERVICE OF PROTEST (FAR 52.233-2) (SEP 2006)**

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from

**USDA ARS PA**  
**ATTN: Kelly Wright**  
**kelly.wright@usda.gov**  
**PO Box 1807**  
**Manhattan, KS 66505**

(a) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of Provision)

**L.6 SITE VISIT COSNTRUCTION**

**(SITE VISIT ATTENDANCE IS MANDATORY TO PROVIDE A QUOTE ON THIS SOLICITATION)**

Edward T. Schafer Agricultural Research Center  
 Biosciences Research Lab  
 1616 Albrecht Blvd N  
 Fargo, ND 58102

Date: Wednesday, February 14, 2023 at 1:00 PM CST. Sharon Kaseman will meet attendees at the above address.

If you wish to attend the site visit, please send an email to [david.hildebrand@usda.gov](mailto:david.hildebrand@usda.gov) with the title "12805B23Q0168 Site Visit Registration". Please include the name(s) of those attending, along with company information. Contractors must be registered to attend the site visit. If Contractors are not registered, they will not be permitted on the site visit. The site visit registration deadline is February 13, 2023. Any registration request received after 5:00PM CST February 13, 2023 will not be accepted.

(End of Provision)

**L.7 ALTERNATIVE FORMS OF SECURITY (AGAR 452.228-70) (NOV1996)**

If furnished as security, money orders, drafts, cashier's checks, or certified checks shall be drawn payable to: USDA, Agricultural Research Service.

**L.8 INQUIRIES (AGAR 452.204-70) (FEB 1988)**

Inquiries and all correspondence concerning this solicitation should be submitted in writing to the Contracting Officer. Offerors should contact only the contracting officer issuing the solicitation about any aspect of this requirement prior to contract award.

(End of Provision)

## L.9 INSTRUCTIONS FOR THE PREPARATION OF OFFERS

### **PROJECT INFORMATION**

PROJECT TITLE: Install Two Duct Heaters in Biosciences Research Lab

PROJECT LOCATION: Fargo, North Dakota

NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODE: (NAICS): 238220

This procurement is a solicitation competed in accordance with FAR Part 13 Simplified Acquisition Procedures and FAR Part 36 Construction Contracts. Solicitation documentation and any issued amendments will be posted to [sam.gov](https://sam.gov). This is the only official location where these documents can be obtained and where updates are posted. No 'hard copy' solicitation materials are available.

Submission shall be emailed to [david.hildebrand@usda.gov](mailto:david.hildebrand@usda.gov) with the subject line "RFQ 12805B23Q0168" It is the Contractor's responsibility to ensure the Government is in receipt of the offer by the deadline. Contractors shall not wait till the last minute and assume the email will be received by the Government before the time of closing.

Offerors shall provide all requested information referenced in this section. Failure to provide all requested information will result in the offer being found technically unacceptable, thus ineligible for award.

### **OFFER SUBMISSION DOCUMENTS:**

**Transmittal Summary Letter.** A summary cover letter to the submission should provide at a minimum the following Identification of the Point of Contact, phone number, and email address. A list of the submission package contents.

**Register for and Attendance Site Visit.** Offerors must register and attend the site visit IAW paragraph L.6, Site Visit for Construction.

**Submit a Fully completed and Signed SF 1442.** Original fully completed and signed SF 1442 Offer page, and acknowledgement of all amendments with via entering data in block 19 of the SF1442 or completing blocks 15A-C of the Amendment and attaching to the SF 1442 offer page. Complete blocks 14, 15, 17 (if applicable), 19 (if any amendments posted), and 20A-C.

**Price the Bid Schedule Page 4.** Complete page 4, B.3 Schedule of Items, filling in the Price for both CLINS and UEID.

**Submit a SF 24 Bid Bond.** Completed/signed SF 24 Bid Bond. A bid guarantee is required in an amount not less than 20 percent of the proposed price but shall not exceed \$100,000. Failure to furnish the required bid guarantee in the proper form and amount, by the time set for opening of offers, shall require rejection of the offer in all cases except those listed in Federal Acquisition Regulation (FAR) 28.101-4. Bid Bonds must be provided using Standard Form 24 (see FAR 28.106-1) and be from a corporate surety listed in Department of Treasury Circular 570.

Individual sureties must be acceptable to the Contracting Officer (see FAR 28.203) and be accompanied by Standard Form 28 Affidavit of Individual Surety. Other forms of offer security are acceptable as denoted in solicitation provision FAR Part 28.203-2. (Original Bid Bond copy not required, reference FAR Class Deviation to Eliminate Hard Copy Originals.... dated May 19, 2020.)

**Documented Experience-** Offerors shall provide at least (2) references that demonstrate recent and relevant experience doing this type of work. References may be federal or non-federal customers. Reference information shall include brief project description, location of work, and current point of contact information (phone or email) to an individual with knowledge of the project.

### **NOTICE TO OFFERORS:**

The Government reserves the right to cancel this solicitation, either before or after the closing date. In the event the Government cancels this solicitation, the Government has no obligation to reimburse an offeror for any costs incurred.

End of this Section.

## SECTION M - EVALUATION FACTORS FOR AWARD

### EVALUATION METHODOLOGY

The Government shall conduct a source selection using Lowest Priced Technically Acceptable (LPTA). The Government shall award a contract to the responsible offeror who offers the lowest priced that is found to be technically acceptable, as set forth in the solicitation. In order to be considered acceptable, an offeror must conform to the material terms of the solicitation (e.g. contract clauses, specifications, etc). The Government shall not award any contract to an offeror that does not propose a fair and reasonable price or not determined responsible.

The Government intends to select a single contractor; however, it reserves the right to award no contract at all, depending on availability of funds and other extenuating circumstances. Award shall be made on an all or none basis. Offerors proposing deviations or alternatives to the solicitation requirements shall be considered non-compliant and not considered for award.

**Offer Compliance:** Offers will be reviewed for timeliness. If the offer is received after the closing date and does not meet the criteria for “late submissions” in the solicitation, the offer will not be evaluated. The offer will be reviewed for compliance to the solicitation (i.e. submitted all documents required in Section L.9 & attended the site visit as required in L.6). If the offer is not compliant to the solicitation it will not be evaluated, and the offeror will be notified that they are found to be not-responsible.

Offer will be evaluated using FAR Part 13 Simplified Acquisition Procedures and LPTA. To be found technically acceptable, an offeror must:

**Technical Factor #1:** Register for and attend the site visit. Failure to attend the site visit will result in the offeror being found unacceptable.

**Technical Factor #2:** Return a fully completed SF 1442 and any SF30's posted in sam.gov. Failure to fill in all the required blocks on the SF 1442 and SF 30's posted to sam.gov will result in the offeror being found unacceptable.

**Technical Factor #3:** Fill in a price in Section B on Page 4 of this solicitation. Failure to return a price on Page 4, Section B.2, will result in the offeror being found unacceptable.

**Technical Factor #4:** Return a completed bid bond. Failure to return a completed SF 24 or provide other acceptable guarantees will result in the offeror being found unacceptable.

**Technical Factor #5:** Provide documented experience. Failure to provide two recent and relevant references, to include current contact information, in addition to a brief description of the work will result in the offeror being found unacceptable. If references provided do not offer a satisfactory or better check, the vendor may be found unacceptable.

**Price.** The Government shall evaluate this factor for all CLINS to assess the offeror's proposed price submitted in Schedule B. Price will not be assigned an adjectival rating. The Government will award a contract to an offeror whose technically acceptable offer represents the lowest price to the Government. The Government shall not award a contract that does not propose a fair and reasonable price.

End of this section