



USAID | SOUTH SUDAN

FROM THE AMERICAN PEOPLE

Issuing Date:	June 27, 2023
Virtual Pre-proposal conference:	July 13, 2023, at 1500 Juba Time (registration required)
Questions Due:	July 14, 2023, at 0900 Juba Time
Phase One Proposal Submission Due Date	July 24, 2023, at 0900 Juba Time
Phase Two Proposal Submission Due Date:	To be communicated to those that pass Phase One

SUBJECT: Request for Proposals No. 72066823R00007 for USAID/South Sudan Juba Resident Compound Kitchen Reconstruction (Juba RCK) Project

Dear Prospective Offerors:

The United States Government, represented by the U.S. Agency for International Development Mission in South Sudan (USAID/South Sudan), is seeking Phase One proposals from qualified organizations interested in providing the services as described in this solicitation. This acquisition for construction is being procured in accordance with Federal Acquisition Regulation Subpart 36.3 -- Two-Phase Design-Build Selection Procedures.

- Phase One will be evaluated in accordance with FAR 36.303-1 -- Phase One.
- Phase Two will be evaluated in accordance with FAR 36.303-2 -- Phase Two.

USAID/South Sudan anticipates awarding one firm-fixed-price Design-Build contract. For Phase Two, the U.S. Government may award this contract without discussions.

A pre-proposal conference will be held virtually on July 13th at 1500 Juba time. Please confirm your attendance by sending an email to Warran Bully wabully@usaid.gov and Juma Lutyo jlutyo@usaid.gov. In the subject state: Juba RCK Conference. In the body of the email indicate the Name, Title and email address of the attendees from your organization. Please RSVP by July 12th at 0900 Juba time.

The order of magnitude of the resultant contract is between \$500,000 and \$750,000. All work must be completed no later than **270 days** after Notice to Proceed (NTP).

*Embassy of the United States in South Sudan
Kololo Road, adjacent to the European Union's compound Juba, South Sudan
Telephone: +211.912.105.107
Website: <https://www.usaid.gov/south-sudan>*

Prime Offerors under this RFP must be registered under the North American Industry Classification System (NAICS) code 236220 – Commercial and Institutional Building Construction.

Offerors are reminded that as part of the Phase 2 submission, they must provide their FAR 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment and/or 52.204-26 (OCT 2020). If the offeror provides an affirmative representation under FAR 52.204-24(d)(2), Offeror must submit the list of covered equipment and services and all disclosure information required by FAR 52.204-24(d)(2) and the Section L Provision related thereto.

Questions regarding this request must be submitted via e-mail to the points of contact identified in Section L no later than the date and time for questions stated above. Unless otherwise notified by an amendment to this RFP, USAID will not answer questions after the deadline or by phone. Offerors must not submit questions to any other USAID staff. All questions submitted and answers to all questions will be provided in writing through an amendment to the RFP which will be publicly posted on beta.SAM.gov.

Issuance of this solicitation in no way obligates USAID to award a contract, nor does it commit USAID to pay any cost incurred in the preparation and submission of a proposal. USAID reserves the right to reject any and all offers received. Award of a contract under this RFP is subject to availability of funds and other internal USAID approvals. Final award of any resultant contract cannot be made until funds have been fully appropriated, allocated, and committed through USAID's internal procedures. USAID bears no responsibility for data errors resulting from transmission or conversion processes.

Sincerely,

Kevin M. Sampson
Supervisory Contracting Officer
USAID/South Sudan

PART I – THE SCHEDULE

SECTION B - SUPPLIES OR SERVICES AND PRICE/COSTS

B.1 PURPOSE

The purpose of this contract is to:

1. Validate the existing 90% engineering designs, complete 100% engineering designs, and perform value engineering.
2. Provide construction services as described in detail in Section C, Statement of Work for the USAID/South Sudan Juba Compound, Residential Compound, Kitchen Reconstruction.

B.2 TYPE OF CONTRACT

This is a Firm Fixed Price contract with two contract line-item numbers (CLINs) and payable entirely in U.S. dollars. The Government will not adjust the contract price due to fluctuations in currency exchange rates.

B.3 CONTRACT PRICE

The contractor must complete all work (including furnishing all labor, material, equipment, management, and services) required under this contract for the following firm fixed price:

Item No	Description	Unit		Amount
CLIN 001	Validation and Completion of the 90% Existing Design and Value Engineering	1 Lot	Firm Fixed Price	\$TBD
CLIN 002	Construction	1 Lot	Firm Fixed Price	\$TBD
Total Contract Price				\$TBD

B.4 SCHEDULE OF VALUES

[To be inserted at time of contract award for progress payments.]

[END OF SECTION B]

SECTION C – DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

C.1: GENERAL

1.01 PROJECT LOCATION AND SITE

- A. The project is in the United States Embassy Residential Compound (RC) in Juba, South Sudan. The Residential Compound (RC) is located on RC Road, north of Airport Road (see Figure 1).



Figure 1. Location map for the South Sudan U.S. Embassy

1.02 PROJECT OBJECTIVES

- A. The Embassy has identified the following key project objectives:
1. Finalize both design and value engineering
 2. Reconstruct and expand the existing kitchen to accommodate increased demand on infrastructure.
 3. Reconstruct the kitchen in two phases as shown in the contract documents to ensure the kitchen remains in service for the duration of the project.
 4. Reconstruct the aggregate paved roadway and parking area that are serving the kitchen as shown.
 5. Design validation and 100% design completion, construction and project acceptance must occur within 365 calendar days after notice to proceed.

1.03 PROJECT SCOPE OF DELIVERY

- A. Deliverables for this project are anticipated to include, but are not limited to:
1. Finalize the existing 90% engineering design to a 100% engineering design and specifications and perform value engineering.
 2. Reconstruct and expand the existing kitchen in two phases. The first phase is to construct the expansion and relocate the existing kitchen operation into the expanded kitchen area. The second phase is to demolish and reconstruct the existing kitchen.
 3. Relocate existing kitchen's equipment including the 20ft reefer and necessary electrical connections as necessary with the approval of the COR to ensure continuous operation of the kitchen.
 4. Reconstruct the aggregate paved roadway and parking area serving the kitchen.
 5. Complete site work including, but not limited to incidental utilities connections as shown on the plans as well as restoring all disturbed areas to pre-construction conditions unless otherwise specified on the plans.
 6. Provide all labor, materials, equipment, and incidental services necessary to construct and commission the required facilities.
 7. Provide full as-built drawings for all work completed in AutoCAD format as well as PDF format.
- B. RELATED WORK
1. There are many projects being constructed concurrently on the RC. The Contractor must ensure that its activities are deconflicted with other activities through the COR and the Construction Oversight contractor. The Contractor must account for routine deconfliction activities.
 2. Transportation and storage of all materials from the site of manufacture to the site of installation is the responsibility of the contractor. Lay-down and storage areas within the RC are limited. The Contractor must plan for offsite warehousing for material and supplies at location(s) to be secured by the Contractor. USAID may allow use of the aggregate paved roadway and parking between the HLZ gate and the construction site as the project lay-down and storage area.

1.02 SUBMITTALS

- A. The Contractor is directed to Specifications Section 01 25 00, Submittal Procedures. The Contractor must conform in every respect with the procedures specified therein and ensure that all submittals are scheduled, tracked, and approved prior to the execution of the work.

1.03 REFERENCE STANDARDS (All current editions unless otherwise stated)

- A. American National Standards Institute

- B. International Building Code (IBC), 2021 Editions
- C. International Electro-technical Commission (IEC)
- D. International Energy Conservation Code (IECC)
- E. Instrumentation Society of America (ISA)
- F. The International Energy Conservation Code
- G. American Society for Testing and Materials (ASTM)
- H. ASHRAE 90.1-2007 "Energy Standard for Buildings Except Low-Rise Residential Buildings"
- I. Electronic Industries Association.
- J. Environmental Protection Agency (EPA) Purple Book 560/5-85-024.
- K. EPACT Energy Policy Act of 2005
- L. Illuminating Engineering Society of North America Handbook (IESNA)
- M. Instrumentation Society of America (ISA)
- N. Insulated Power Cable Engineers Association (IPCEA)
- O. Institute of Electrical and Electronic Engineers (IEEE)
- P. National Fire Protection Association
 - 1. NFPA 70 – National Electrical Code
 - 2. NFPA 70E – Electrical Safety Requirements for Employee Workplaces
 - 3. NFPA 72 - National Fire Alarm Code
 - 4. NFPA 90A – Installation of Air Conditioning and Ventilation Systems
 - 5. NFPA 101 Life Safety Code
 - 6. NFPA 170 – Fire Safety Symbols
 - 7. NFPA 780 Lightning Protection Code, 2008 Edition
- Q. National Electrical Manufacturers Association (NEMA)
- R. National Electric Safety Code ANSI C2

1.04 QUALITY ASSURANCE

- A. Quality Assurance/Construction Oversight Contractor:

The Contractor is advised that a Quality Assurance/Construction Oversight contractor will perform such services on behalf of the Government. The Quality Assurance/Construction Oversight contractor will review all submittals and provide daily inspection services. The Contractor should anticipate weekly status update meetings with the COR and the Quality Assurance/Construction Oversight contractor to monitor project progress and overall quality of the work.
- B. Service of Manufacturer's Representative:

Consistent with industry best practices and to facilitate sustainable operation of the kitchen over the life of the project, factory representatives who have complete knowledge of proper installation, start-up, and operation and maintenance (O&M) must be available to assist in the commissioning of the kitchen building systems. The Contractor and/or factory

representative will provide 40 hours of system commissioning and related training on the operation of the systems to the kitchen's operation and maintenance staff.

1.05 MAINTENANCE

- A. During the period of performance, the Contractor is the sole responsible for all the relevant maintenance of the phase-1 kitchen.
- B. Upon completion and handover of the entire project, the Contractor will transition maintenance of the kitchen facilities to the Government and its agents as directed by the COR.

C.2: PRODUCTS

2.01 WARRANTIES ON LABOR, MATERIALS, AND EQUIPMENT

- A. All materials and equipment must be supplied with a full warranty as provided by the manufacturer. All warranties must be transferred to the Government from the Contractor before acceptance of the project.
- B. All workmanship and installations must include a one-year warranty from the Contractor from the date of handover/takeover of the facility.

2.02 DELIVERIES OF MATERIALS

Materials delivered to the site shall be marked as follows:

US EMBASSY JUBA, SOUTH SUDAN
% Contractor POC
Attn: EXO/GSO Shipping Unit
Cellphone: +211 912 117 887
+211 912 117 847
JUBA, SOUTH SUDAN (DIPLOMATIC CARGO)
(Jubausaidshipping@usaid.gov)

C.3: EXECUTION

3.01 INSTALLATION

The Contractor is responsible for delivering all labor, materials, and equipment required for fully functional kitchen facilities as shown in the plans and described in the specifications. The Contractor must install all facilities in strict compliance with the execution instructions in each technical specification.

3.02 FIELD TESTING AND COMMISSIONING

- A. After all the equipment and structures have been completely installed, an initial start-up test of each system including heat exhaust system, air conditioning system, walk-in freezing/refrigerating system, electrical and plumbing etc., must be conducted as directed by the COR and the Construction Oversight A&E firm.
- B. The COR will require any deficiencies noted to be corrected, by repairing or replacing the defective component and retesting the component and/or system until it meets the approval of the COR, at no additional cost to the Government.
- C. The Contractor will provide Commissioning Services as further described in the general and technical specifications contained in the contract documents.

C.4: OTHER CONSTRUCTION CONSIDERATIONS

4.01 PROJECT BACKGROUND

The kitchen project is needed to meet a surge in demand for on-compound services. The construction of the New Embassy Compound (NEC) and the expected increase in Chief of Mission personnel will require an increase in throughput at the kitchen to accommodate the expected increase in demand. The kitchen will be modernized, expanded, and brought up to current standards.

4.02 SITE USE

- A. The RC provides living quarters to the USG employees of the Embassy. The Contractor must respect the daily use of the compound by its residences and service providers. The Contractor must plan and schedule all activities to minimally impact the quality of life within the compound while carrying on safe construction activities.
- B. The Contractor must ensure that all construction activities are carried out while maintaining the continued full operation of the Embassy Compound.
- C. The Contractor must take note that other contractors are likely to be actively carrying out construction, and maintenance activities within the compound. The Contractor must plan and execute the required work in a manner to not conflict with the activities of other contractors. The Government shall provide additional information regarding ongoing construction during the bidders' pre-bid site visit.
- D. The Contractor's working hours are subject to the US Embassy operational hours of 8 AM to 5 PM. Contractors are generally able to access the compound facilities by 7:30 AM and depart the facilities no later than 5:00 PM.
- E. The Contractor is advised that underground drawings for utilities and other services are generally not available. The Contractor's subsurface exploration and utility installation activities must be performed in a manner to minimally impact compound utilities. Utility

lines must be relocated when the Contractor encounters interference with construction activities under this contract at no charge to the government.

- F. The Contractor must take note that photos within the Compounds are neither available, nor can be taken unless coordinated with RSO through COR.
- G. Attachment 5 is a schedule of Embassy holidays for scheduling purposes. Construction activities must only be performed during regular Embassy operation hours.

4.03 DIVISION ONE SPECIFICATIONS

- A. Contractor must execute the construction, commissioning, and closeout of the project in accordance with the requirements of the contract, including the procedures identified in the Division 01 specifications.
- B. Contractor's Temporary Facilities must be off the U.S. Embassy Compound and designated in the Site Utilization Plan and in compliance with Div. 1, Section 015005, Temporary Facilities and Control.

4.04 AS BUILT CONSTRUCTION DOCUMENTS

- A. As-built drawings, models, and documentation must be delivered to the USG as part of the permanent project record. USG shall be the exclusive owner of this documentation
- B. Contractor must provide O&M manuals related to project installed equipment electronically. This must include warranty registration, and information, and/or documentation required for the USG to exercise such warranty rights. The following contract specifications shall be referenced (see Attachment 2): Section 017705 Closeout Procedures.

4.05 SECURITY DURING CONSTRUCTION

- A. Per Division 01 specifications, the Contractor will be required to limit access to the construction site through a security screening facility known as Compound Access Control (CAC) facility. The Contractor is required to abide by the Access Control Policy in seeking access to construction sites.
- B. During construction a particular access known as South-CACs will be used for transportation to/from the site, and such be designated on the Site Utilization Plan and submitted in accordance with Division 1 Specifications.

4.06 DIPLOMATIC SECURITY (DS) SECURITY COMPLIANCE REVIEW DURING CONSTRUCTION

- A. The Bureau of Diplomatic Security (DS) will perform periodic security inspections of the project, known as Security Compliance Reviews (SCRs). The DS compliance teams document

these inspections, address physical and technical security deficiencies or discrepancies relating to the project and provide corrective recommendations to the COR.

- B. The goals of the interim SCRs are to understand the security posture of a project and to identify potential problem areas which allows the Contractor to take corrective action earlier in the construction cycle of the project. The purpose of interim SCRs is to ensure construction meets the security requirements specified in the construction drawings and project specifications manuals.
- C. A final SCR will be performed and will be documented in a report at project completion.

[END OF SECTION C]

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SECTION D - PACKAGING AND MARKING

D.1 BRANDING STRATEGY

The Contractor must submit final Branding Implementation and Marking Plans no later than 30 days after award. The plan must address the elements below and be submitted to the CO for approval.

Per ADS 320.3.2.1, the Branding Strategy for this contract is as follows:

The activity name: USAID/South Sudan Juba Resident Compound Kitchen Reconstruction (Juba RCK) Project

The desired level of visibility: Given the nature and location of this project, limited branding and marking is required for this project.

Threats and restrictions to the security of the program must be identified in the proposed Plan and assessed to request any necessary exception from the marking requirement in accordance with ADS 320.3.2.5.

The Contractor should review the USAID “Graphic Standards Manual” available at www.usaid.gov/branding, or any successor branding policy to inform its Branding Implementation and Marking Plans.

D.2 AIDAR 752.7009 MARKING (JAN 1993)

- a) It is USAID policy that USAID-financed commodities and shipping containers, and project construction sites and other project locations be suitably marked with the USAID emblem. Shipping containers are also to be marked with the last five digits of the USAID financing document number. As a rule, marking is not required for raw materials shipped in bulk (such as coal, grain, etc.), or for semi-finished products which are not packaged.
- b) Specific guidance on marking requirements should be obtained prior to procurement of commodities to be shipped, and as early as possible for project construction sites and other project locations. This guidance will be provided through the cognizant technical office indicated on the cover page of this contract, or by the Mission Director in the Cooperating Country to which commodities are being shipped, or in which the project site is located.
- c) Authority to waive marking requirements is vested with the Regional Assistant Administrators and with Mission Directors.
- d) A copy of any specific marking instructions or waivers from marking requirements is to be sent to the Contracting Officer; the original should be retained by the Contractor.

[END OF SECTION D]

SECTION E - INSPECTION AND ACCEPTANCE

E.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

NUMBER	TITLE - FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)	DATE
52.246-4	INSPECTION OF SERVICES - FIXED PRICE	AUG 1996
52.246-12	INSPECTION OF CONSTRUCTION	AUG 1996

E.2 INSPECTION AND ACCEPTANCE

USAID inspection and acceptance of services, reports and other required deliverables or outputs shall take place at USAID in South Sudan, or at any other location where the services are performed and reports and deliverables or outputs are produced or submitted.

[END OF SECTION E]

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SECTION F - DELIVERIES OR PERFORMANCE

F.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

NUMBER	TITLE - FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)	DATE
52.236-15	SCHEDULES FOR CONSTRUCTION CONTRACTS	APR 1984
52.242-14	SUSPENSION OF WORK	APR 1984
52.242-15	STOP WORK ORDER	AUG 1989
52.247-34	F.O.B. DESTINATION	NOV 1991

F.2 DELIVERABLES AND DELIVERABLES SCHEDULE

All deliverables are identified in Sections C through I of the contract and the attachments in Section J. All reports must be in the English language. The Contractor must promptly notify the COR with a copy to the CO of any problems, delays or adverse conditions which materially impair the Contractor's ability to meet the requirements of the contract. All activity outputs and deliverables must be submitted electronically to the COR with a copy to the CO using procedures provided by the CO at contract award in both unlocked PDF and in the original software program format in which they were developed, unless only hard copies are requested.

USAID's fiscal quarters end on December 31st, March 31st, June 30th, and September 30th.

In addition to the deliverables in other Sections, the Contractor must provide the below deliverables:

Quarterly Progress Report: The Contractor must submit quarterly performance reports no later than 10 calendar days following the end of each standard USG fiscal quarter to the COR and a copy to the CO. Regardless of the start date of the contract, all reporting will be adjusted to the USG fiscal year calendar. The reports must not be more than 15 pages, excluding annexes. The reports will describe progress made towards the Base Schedule in the calendar quarter most recently ended. This report will also include explanation of problems, delays or adverse

conditions, actions taken or contemplated to resolve the situation, and any assistance needed to resolve the situation.

Quarterly Notification of Changes Certification: No later than three (3) days after the end of the fiscal quarter (dates listed above), the Contractor must submit a certification to the Contracting Officer indicating that either there have or have not been changes to the contract during the preceding quarter. If there have been changes with notification given per FAR 52.243-7, then the Contractor must summarize the changes in the certification. If there have been changes, but no notification has been given per FAR 52.243-7, the Contractor must provide the required information per the clause and an explanation of why notification was not provided.

F.3 FAR 52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)

The Contractor shall be required to:

- a) commence work under this contract within 10 days after receipt of Notice to Proceed (NTP).
- b) prosecute the work diligently and complete the entire work ready for use not later than 270 days after receipt of NTP. The time stated for completion shall include final cleanup of the premises.

F.4 PRINCIPAL PLACE OF PERFORMANCE

The principal place of performance of this contract is Juba, South Sudan.

F.5 KEY PERSONNEL REQUIREMENTS

The Contractor must furnish the positions deemed key personnel, as noted below, for the full period of performance of this contract. The key personnel must be based in Juba, South Sudan. The key personnel identified below are considered essential to the work being performed under this contract. The Contractor must remain responsible for providing such key personnel for full-time performance for the term of this contract unless otherwise agreed to by the Contracting Officer.

The Contractor must immediately notify the Contracting Officer and the COR of any key personnel's departure and the associated reason. The Contractor must take steps to immediately rectify this situation and must propose a substitute candidate for each vacated

position within fifteen (15) days. The Contractor must not actively replace any of the key personnel without the prior written consent of the Contracting Officer

The performance of this contract requires the following key personnel:

a) Project Manager

The Contractor must designate a project manager (PM). The PM is responsible for resourcing and managing the execution of all work on-site. The scope of this position includes resourcing and managing all engineering designs, on-site engineering, and execution of all construction activities, including management of the Superintendent of Works. The PM will also be responsible for the development of the project schedule, management of required project resources, and procurement of required materials and services. The PM will have routine contact with the site Quality Assurance (QA) personnel assigned by the Government who will provide construction oversight and inspection. The PM will be responsible for meeting milestone targets for completion. The PM must possess a working knowledge of various trades, to include carpentry, interior finishes, masonry, site civil construction, subsurface utilities, iron working, electrical, HVAC/mechanical, and plumbing trades and must have no less than 15 years of experience in vertical construction, demonstrated experience in project controls (schedules, cost estimates, and risk management), and no less than 10 years of experience in construction supervision. The PM must hold at least a bachelor's degree in civil engineering, construction engineering and management, and/or architectural engineering.

b) Superintendent of Work (Full time on site)

The Contractor must designate a Superintendent of Work (SW.) The SW is responsible for the execution of all work on site. The scope of this position includes all on-site engineering, execution of all construction activities, coordination of the activities of the various trades required for completion of the project, coordination of access and escort requirements, and coordination of material deliveries. The SW must also play a key role in the development of the project schedule and must always be cognizant of the status of the schedule. The SW will have primary contact with the site Quality Assurance (QA) personnel assigned by the Government who will provide construction oversight and inspection. The SW must possess a working knowledge of various trades to include carpentry, interior finishes, masonry, site civil construction, subsurface utilities, iron working, electrical, HVAC/mechanical, and plumbing trades and must have no less than 15 years of experience in vertical construction and no less than 10 years of experience in construction supervision.

c) Quality Control Officer (Full time on site)

The Contractor must designate a Quality Control Officer (QCO) as the primary point of contact with whom USAID may contact for procedural and substantive matters. The QCO bears primary responsibility for ensuring that all work complies with the quality requirements of the project and that all work complies with the technical documents to include approved plans, specifications, and standard details. The QCO must have strong written and oral presentation skills and be thoroughly knowledgeable about the overall technical, administrative, and logistical aspects of the project to ensure the effective, efficient, and timely implementation of all activities undertaken by the Contractor.

The QCO must possess: (1) at least a bachelor's degree in civil engineering, construction engineering and management, and/or architectural engineering; (2) at least 10 years of experience in vertical construction and project controls (schedules, cost estimates, and risk management); (3) no less than 10 years of experience in construction supervision; and (4) no less than 5 years of experience in providing QA/QC services for projects of a comparable size and scope. The QCO must currently meet any licensing, registration, or similar requirements from his/her home office or from an East African regional country, or any other country where licenses and registration are available. All licenses and registrations must be current and in good standing, without any pending disciplinary action, administrative sanctions, or disciplinary history.

d) Health and Safety Officer (Full time on site)

The Contractor must designate a Health and Safety Officer (HSO) for the project. The HSO must possess at least 3 years of experience as an HSO or of similar relevant experience. The HSO must be knowledgeable in the use and practice of OBO guidelines, US Army Corps of Engineers Safety and Health Requirements Manual and/or OSHA for the construction industry. The HSO must be highly capable of writing and speaking English.

F.6 COORDINATION WITH A&E CONTRACTOR

USAID has an A&E Contractor to provide construction oversight and quality assurance services. The Contractor will be required to attend regular meetings organized by the A&E Contractor.

The A&E Contractor does not have the authority to:

- Direct or suspend the performance of the Contractor's work, unless continued performance of work will endanger the health, welfare, or safety of the public or any Project worker.
- Approve deviations from any contract requirements.
- Approve changes in or deviations from the approved design documents, or performance by the Contractor of approved extra or changed work.

- Waive any contract requirements or provisions.
- Approve Change Orders (COs), Value Engineering Change Proposals (VECPs), or Contract amendments.

[END OF SECTION F]

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SECTION G - CONTRACT ADMINISTRATION DATA

G.1 AIDAR 752.7003 DOCUMENTATION FOR PAYMENT (NOV 1998)

- a) Claims for reimbursement or payment under this contract must be submitted to the Paying Office indicated in the schedule of this contract. The Contracting Officer's Technical Representative (COR) is the authorized representative of the Government to approve vouchers under this contract. The Contractor must submit either paper or fax versions of the SF-1034--Public Voucher for Purchases and Services Other Than Personal. Each voucher shall be identified by the appropriate USAID contract number, in the amount of dollar expenditures made during the period covered.

- 1) The SF 1034 provides space to report by line item for products or services provided. The form provides for the information to be reported with the following elements:

Total Expenditures			
[Document Number: XXX-X-XX-XXXX-XX]			
Line Item No	Description	Amt vouchered	Amt vouchered
001	Product/Service Desc. for Line Item 001	\$ XXXX.XX	\$ XXXX.XX
002	Product/Service Desc. for Line Item 002	\$ XXXX.XX	\$ XXXX.XX
Total		\$ XXXX.XX	\$ XXXX.XX

- 2) The fiscal report shall include the following certification signed by an authorized representative of the Contractor:

The undersigned hereby certifies to the best of my knowledge and belief that the fiscal report and any attachments have been prepared from the books and records of the Contractor in accordance with the terms of this contract and are correct: the sum claimed under this contract is proper and due, and all the costs of contract performance (except as herewith reported in writing) have been paid, or to the extent allowed under the applicable payment clause, will be paid currently by the Contractor when due in the ordinary course of business; the work reflected by these costs has been performed, and the quantities and amounts involved are consistent with the requirements of this Contract; all required Contracting Officer approvals

have been obtained; and appropriate refund to USAID will be made promptly upon request in the event of disallowance of costs not reimbursable under the terms of this contract.

BY: _____

TITLE: _____

DATE: _____

- b) Local currency payment. The Contractor is fully responsible for the proper expenditure and control of local currency, if any, provided under this contract. Local currency will be provided to the Contractor in accordance with written instructions provided by the Mission Director. The written instructions will also include accounting, vouchering, and reporting procedures. A copy of the instructions shall be provided to the Contractor's Chief of Party and to the Contracting Officer. The costs of bonding personnel responsible for local currency are reimbursable under this contract.
- c) Upon compliance by the Contractor with all the provisions of this contract, acceptance by the Government of the work and final report, and a satisfactory accounting by the Contractor of all Government-owned property for which the Contractor had custodial responsibility, the Government shall promptly pay to the Contractor any moneys (dollars or local currency) due under the completion voucher. The Government will make suitable reduction for any disallowance or indebtedness by the Contractor by applying the proceeds of the voucher first to such deductions and next to any unliquidated balance of advance remaining under this contract.
- d) The Contractor agrees that all approvals of the Mission Director and the Contracting Officer which are required by the provisions of this contract shall be preserved and made available as part of the Contractor's records which are required to be presented and made available by the clause of this contract entitled "Audit and Records--Negotiation".

G.2 CONTRACTING OFFICER'S AUTHORITY

The Contracting Officer is the only person authorized to make or approve any changes to the requirements of this Contract and notwithstanding any provisions contained elsewhere in this Contract, the said authority remains solely in the Contracting Officer. In the event the Contractor makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment must be made in the contract terms and conditions, including cost/price.

The Administrative Contracting Office is:

TBD
Contracting/Agreement Officer
USAID/South Sudan/OAA
C/O 4420 Juba Place
Washington, DC 20521-4420
Email: TBD

G.3 CONTRACTING OFFICER'S REPRESENTATIVE (COR)

- a) USAID/South Sudan shall provide technical oversight to the Contractor through the designated COR. The designated COR is TBD. A copy of the designation letter will be provided to the Contractor.
- b) The designated COR is responsible for providing technical direction to the contractors, as well as fulfilling those duties and responsibilities as specified in the designation letter.

G.4 TECHNICAL DIRECTIONS/RELATIONSHIP WITH USAID

- a) Technical Direction is defined to include:
 - 1) Written directions to the Contractor which fill in details, suggest possible lines of inquiry, or otherwise facilitate completion of work.
 - 2) Provision of written information to the Contractor which assists in the interpretation of drawings, specifications, or technical portions of the work statement.
 - 3) Review and, where required, provide written approval of technical reports, drawings, specifications, or technical information to be delivered. Technical directions must be in writing, and must be within the scope of the work as detailed in Section C.
- b) The COR is authorized by designation to take any or all action with respect to the following which could lawfully be taken by the Contracting Officer, except any action specifically prohibited by the terms of this Contract:
 - 1) Assure that the Contractor performs the technical requirements of the contract in accordance with the contract terms, conditions, and specifications.
 - 2) Perform or cause to be performed, inspections necessary in connection with a) above and require the Contractor to correct all deficiencies; perform acceptance for the Government.
 - 3) Maintain all liaison and direct communications with the Contractor. Written communications with the Contractor and documents shall be signed as "Contracting Officer's Representative" with a copy furnished to the Contracting Officer.

- 4) Issue written interpretations of technical requirements of Government drawings, designs, and specifications.
- 5) Monitor the Contractor's production or performance progress and notify the Contracting Officer in writing of deficiencies observed during surveillance and suggest appropriate action to affect correction. Record and report to the Contracting Officer incidents of faulty or nonconforming work, delays, or problems.
- 6) Obtain necessary security clearance and appropriate identification if access to Government facilities is required. If to be provided, ensure that Government furnished property is available when required.

LIMITATIONS: The COR is not empowered to award, agree to, or sign any contract (including delivery or purchase orders) or modifications thereto, or in any way to obligate the payment of money by the Government. The COR may not take any action which may impact the contract schedule, funds, scope or contractual requirements. All contractual agreements, commitments, or modifications shall be made only by the Contracting Officer.

- c) In the absence of the designated COR, the Contracting Officer may designate someone to serve as COR in their place. However, such action to direct an individual to act in the COR's stead shall immediately be communicated to the Contractor.
- d) Contractual Problems - Contractual problems, of any nature, that may arise during the life of the contract must be handled in conformance with specific public laws and regulations (i.e., Federal Acquisition Regulation and Agency for International Development Acquisition Regulation). The Contractor and the COR shall bring all contracting problems to the immediate attention of the Contracting Officer. Only the Contracting Officer is authorized to formally resolve such problems. The Contracting Officer shall be responsible for resolving legal issues, determining contract scope, and interpreting contract terms and conditions. The Contracting Officer is the sole authority authorized to approve changes in any of the requirements under this contract. Notwithstanding any clause contained elsewhere in this contract, the said authority remains solely with the Contracting Officer. These changes include but shall not be limited to the following areas: scope of work, price, quantity, technical specifications, delivery schedules, and contract terms and conditions. In the event the Contractor affects any changes at the direction of any other person other than the Contracting Officer, the change shall be considered to have been made without authority.
- e) Failure by the Contractor to report to the Administrative Contracting Office, any action by the Government considered a change, within 3 days in accordance with FAR 52.243-7 (Notification of Changes), waives the Contractor's right to any claims for equitable adjustments.

G.5 PAYING OFFICE

The paying office for this contract is:

USAID/South Sudan/OFM
Office of Financial Management
4420 Juba Place
Washington, DC 20521-4420
E-mail: payablejuba@usaid.gov

Note: Electronic invoices are required and must be submitted to the email address above. The Final Invoice must be submitted to the Contracting Officer. No payment may be authorized without approval from the CO, in accordance with the payments clause.

G.6 ACCOUNTING AND APPROPRIATION DATA

[To be completed at time of award.]

[END OF SECTION G]

SECTION H – SPECIAL PROVISIONS

H.1 LOGISTIC SUPPORT

The Contractor will be responsible for all administrative and logistic support required to fulfill the requirements of this contract in the U.S. and overseas.

H.2 GOVERNMENT FURNISHED FACILITIES OR PROPERTY

The Contractor and any employee or consultant of the Contractor is prohibited from using U.S. Government facilities (such as office space or equipment) or U.S. Government clerical or technical personnel in the performance of the services specified in the Contract unless the use of Government facilities or personnel is specifically authorized in the Contract or is authorized in advance, in writing, by the Contracting Officer.

H.3 SUBCONTRACTING

Contractor must not subcontract with Government of South Sudan entities unless specifically approved in writing by the USAID Contracting Officer. If approved, USAID reserves the right to withdraw such approval if circumstances warrant.

H.4 VALUE ADDED TAX AND CUSTOMS DUTIES

VAT and customs duties should be excluded from the price of the contract. USAID will provide the Contractor correspondence to assist the Contractor in obtaining this exemption from the Government of South Sudan.

H.5 HUMAN RIGHTS VIOLATIONS AND SANCTIONS PROGRAM IN SOUTH SUDAN

a) WORKING IN SOUTH SUDAN - U.S. GOVERNMENT POLICY

Work under this contract must be consistent with U.S. Government's (USG) policy toward South Sudan in effect and as notified by the Contracting Officer (CO) or the Contracting Officer's Representative (COR) throughout the life of the award.

b) U.S. GOVERNMENT SANCTIONS

The Contractor must comply with all applicable U.S. Government sanctions, including those administered by the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) under Executive Order 13664, dated April 3, 2014 (South Sudan sanctions) and Executive

Order 13818 dated December 20, 2017 (Global Magnitsky sanctions). See also FAR Clause 52.225-13, Restrictions on Certain Foreign Purchases.

c) PRIOR APPROVAL FOR FUNDING OR SUPPORT TO ANY LEVEL OF GOVERNMENT

The Contractor must not provide funding or support under this contract to any level of government in the Republic of South Sudan, including the central government or state or local governments, without the prior written approval of the Contracting Officer.

This special contract requirement must be included in all subawards and contracts.

H.6 SEXUAL MISCONDUCT (DEC 2020)

- a) USAID has a zero-tolerance policy for sexual misconduct with the goal of fostering a respectful, safe, healthy and inclusive work environment. USAID maintains policies and procedures to establish a workplace free of sexual misconduct as described in agency policy at ADS Chapter 113, Preventing and Addressing Sexual Misconduct.
- b) USAID has developed two methods for receiving allegations of sexual misconduct: USAID's Unified Misconduct Reporting Portal, available on LaunchPad (launchpad.usaid.gov), and Service Desk, phone, (202) 712-1234. These are also available to the Contractor or its employee(s).
- c) USAID may conduct administrative inquiries into allegations of sexual misconduct that occur within U.S. Government facilities or while the Contractor employee is performing services under the contract. The Contracting Officer will provide the results of any inquiry involving a Contractor employee to the Contractor, subject to federal law and USAID's information disclosure policies. USAID retains the right to suspend or terminate a Contractor employee's access to any systems and/or facilities for incidents of sexual misconduct.
- d) The Contractor agrees to incorporate the substance of paragraphs (a) through (d) of this requirement in all subcontracts that may require Contractor employees to have routine physical access to USAID facilities.

H.7 COMPLIANCE WITH THE TRAFFICKING VICTIMS' PROTECTION REAUTHORIZATION ACT

The U.S. Government may terminate this Contract, without penalty, if the Contractor or any subcontractor (i) engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of time that the Contract is in effect, or (ii) uses forced labor in the performance of the Contract.

H.8 PROHIBITION OF ASSISTANCE TO DRUG TRAFFICKERS

USAID reserves the right to terminate this contract, to demand a refund or take other appropriate measures if the Contractor is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140.

H.9 EXECUTIVE ORDER ON TERRORISM FINANCING (FEBRUARY 2002)

The Contractor is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the responsibility of the Contractor to ensure compliance with these Executive Orders and laws.

FAR 25.701 prohibits agencies and their contractors and subcontractors from acquiring any supplies or services from individuals or organizations, if any proclamation, Executive Order, Office of Foreign Assets Control (OFAC) regulations, or statute administered by OFAC would prohibit such a transaction. Accordingly, the Contracting Officer must check the U.S. Department of the Treasury's OFAC List to ensure that the names of the Contractor and proposed subcontractors (and individuals from those organizations who have been made known to them), are not on the list. Mandatory FAR clause 52.225-13 Restrictions on Certain Foreign Purchases is included by reference in Section I of this contract. By accepting this contract, the Contractor acknowledges and agrees that it is aware of the list as part of its compliance with the requirements of that clause. This clause must be included in all subcontracts issued under this contract.

H.10 LIMITING PLASTIC POLLUTION AND MISMANAGED WASTE (MAR 2020)

Environmental stewardship is a USAID priority, including preventing ocean pollution from mismanaged plastic waste. USAID seeks to model environmentally aware practices. As such, the Contractor is encouraged to use alternatives to disposable products to reduce environmental impacts. Further, the implementing partner should identify opportunities to support and highlight environmentally friendly, sustainable solutions during the course of implementation.

H.11 RESERVED

H.12 ELECTRONIC PAYMENTS SYSTEM

1) Definitions:

- a) "Cash Payment System" means a payment system that generates any transfer of funds through a transaction originated by cash, check, or similar paper instrument. This includes electronic payments to a financial institution or clearing house that subsequently issues cash, check, or similar paper instruments to the designated payee.
 - b) "Electronic Payment System" means a payment system that generates any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, which is initiated through an electronic terminal, telephone, mobile phone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes debit cards, wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.
- 2) The Contractor agrees to use an electronic payment system for any payments under this award to beneficiaries, subcontractors, or grants under contracts, where applicable.
- 3) Exceptions. The Contractor is allowed the following exceptions, provided the Contractor documents its contract file with the appropriate justification:
- a) Cash payments made while establishing electronic payment systems, provided that this exception is not used for more than six months from the effective date of this award.
 - b) Cash payments made to payees where the Contractor does not expect to make payments to the same payee on a regular, recurring basis, and payment through an electronic payment system is not reasonably available.
 - c) Cash payments to vendors below the micro purchase level as defined by FAR 2.101, or for Grants Under Contracts for less than \$3000, when payment through an electronic payment system is not reasonably available.
 - d) The Contractor has received a specific written exception from the CO that a specific payment or all cash payments are authorized, based on the contractor's written justification, which provides a basis and cost analysis for the requested exception.
- 4) More information about how to establish, implement, and manage electronic payment methods is available to contractors at <https://solutionscenter.nethope.org/programs/c2e-toolkit>.

H.13 DISCLOSURE OF INFORMATION

- a) Contractors are reminded that information furnished under this solicitation may be subject to disclosure under the Freedom of Information Act (FOIA). Therefore, all items that are confidential to business, or contain trade secrets, proprietary, or personnel information must be clearly marked. Marking of items will not necessarily preclude

disclosure when the U.S. Office of Personnel Management (OPM or the Government) determines disclosure is warranted by FOIA. However, if such items are not marked, all information contained within the submitted documents will be deemed to be releasable.

- b) Any information made available to the Contractor by the Government must be used only for the purpose of carrying out the provisions of this contract and must not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract.
- c) In performance of this contract, the Contractor assumes responsibility for protection of the confidentiality of Government records and must ensure that all work performed by its Subcontractors must be under the supervision of the Contractor or the Contractor's responsible employees.
- d) Each officer or employee of the Contractor or any of its Subcontractors to whom any Government record may be made available or disclosed must be notified in writing by the Contractor that information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such information, by any means, for a purpose or to an extent unauthorized herein, may subject the offender to criminal sanctions imposed by 19 U.S.C. § 641. That section provides, in pertinent part, that whoever knowingly converts to their use or the use of another, or without authority, sells, conveys, or disposes of any record of the United States or whoever receives the same with intent to convert it to their use or gain, knowing it to have been converted, must be guilty of a crime punishable by a fine of up to \$10,000, or imprisoned up to ten years, or both.

H.14 RESTRICTIONS AGAINST DISCLOSURE (MAY 2016)

- a) The Contractor agrees, in the performance of this contract, to keep the information furnished by the Government or acquired/developed by the Contractor in performance of the contract and designated by the Contracting Officer or Contracting Officer's Representative, in the strictest confidence. The Contractor also agrees not to publish or otherwise divulge such information, in whole or in part, in any manner or form, nor to authorize or permit others to do so, taking such reasonable measures as are necessary to restrict access to such information while in the Contractor's possession, to those employees needing such information to perform the work described herein, i.e., on a "need-to-know" basis. The Contractor agrees to immediately notify the Contracting Officer in writing in the event that the Contractor determines or has reason to suspect a breach of this requirement has occurred.
- b) All Contractor staff working on any of the described tasks may, at Government request, be required to sign formal non-disclosure and/or conflict of interest agreements to guarantee the protection and integrity of Government information and documents.

- c) The Contractor shall insert the substance of this special contract requirement, including this paragraph (c), in all subcontracts when requiring a restriction on the release of information developed or obtained in connection with performance of the contract.

H.15 LIMITATION ON ACQUISITION OF INFORMATION TECHNOLOGY (APRIL 2018)

(a) *Definitions.* As used in this contract –

“Information Technology” means

(1) Any services or equipment, or interconnected system(s) or subsystem(s) of equipment, that are used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency; where

(2) such services or equipment are ' used by an agency' if used by the agency directly or if used by a contractor under a contract with the agency that requires either use of the services or equipment or requires use of the services or equipment to a significant extent in the performance of a service or the furnishing of a product.

(3) The term " information technology" includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including provisioned services such as cloud computing and support services that support any point of the lifecycle of the equipment or service), and related resources.

(4) The term "information technology" does not include any equipment that is acquired by a contractor incidental to a contract that does not require use of the equipment.

(b) The Federal Information Technology Acquisition Reform Act (FITARA) requires Agency Chief Information Officer (CIO) review and approval of contracts that include information technology or information technology services.

(c) The Contractor must not acquire information technology as defined in this clause without the prior written approval by the contracting officer as specified in this clause.

(d) Request for Approval Requirements:

(1) If the Contractor determines that any information technology will be necessary to meet the Government’s requirements or to facilitate activities in the Government’s statement of work, the Contractor must request prior written approval from the Contracting Officer.

(2) As part of the request, the Contractor must provide the Contracting Officer a description and an estimate of the total cost of the information technology equipment, software, or services to be procured under this contract. The Contractor must simultaneously notify the Contracting Officer’s Representative (COR) and the Office of the Chief Information Office at ITAuthorization@usaid.gov.

(e) The Contracting Officer will provide written approval to the Contractor through modification to the contract expressly specifying the information technology equipment, software, or services approved for purchase by the COR and the Agency CIO. The Contracting Officer will include the applicable clauses and special contract requirements in the modification.

(f) Except as specified in the contracting officer's written approval, the Government is not obligated to reimburse the Contractor for any costs incurred for information technology as defined in this clause.

(g) The Contractor must insert the substance of this clause, including this paragraph (g), in all subcontracts.

H.16 CLOUD COMPUTING (MAY 2018)

(a) *Definitions.* As used in this special contract requirement-

"Cloud computing" means a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. This includes other commercial terms, such as on-demand self-service, broad network access, resource pooling, rapid elasticity, and measured service. It also includes commercial offerings for software-as-a-service, infrastructure-as-a-service, and platform-as-a-service.

"Federal information" means information created, collected, processed, disseminated, or disposed of by or for the Federal Government, in any medium or form. (OMB A-130)

"Information" means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

"Information Security Incident" means an occurrence that (1) actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information or an information system; or (2) constitutes a violation or imminent threat of violation of law, security policies, security procedures, or acceptable use policies.

"Privacy Incident means a violation or imminent threat of violation of security policies, acceptable use policies, or standard security practices, involving the breach of Personally Identifiable Information (PII), whether in electronic or paper format.

"Spillage" means a security incident that results in the transfer of classified or other sensitive or sensitive but unclassified information to an information system that is not accredited, (i.e.,

authorized) for the applicable security level of the data or information. “Cloud Service Provider” or CSP means a company or organization that offers some component of cloud computing – typically Infrastructure as a Service (IaaS), Software as a Service (SaaS) or Platform as a Service (PaaS) – to other businesses, organizations, or individuals.

“Penetration Testing” means security testing in which assessors mimic real-world attacks to identify methods for circumventing the security features of an application, system, or network. (NIST SP 800- 115)

“Third Party Assessment Organizations” means an organization independent of the organization whose IT system is being assessed. They are required to meet the ISO/IEC 17020:1998 standards for independence and managerial competence and meet program requirements for technical FISMA competence through demonstrated expertise in assessing cloud-based solutions.

“Personally Identifiable Information (PII)” means information that can be used to distinguish or trace an individual's identity, such as their name, Social Security Number (SSN), biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. In performing this assessment, it is important to recognize that non-PII can become PII whenever additional information is made publicly available — in any medium and from any source — that, when combined with other available information, could be used to identify an individual. PII examples include name, address, SSN, or other identifying number or code, telephone number, and e-mail address. PII can also consist of a combination of indirect data elements such as gender, race, birth date, geographic indicator (e.g., zip code), and other descriptors used to identify specific individuals. When defining PII for USAID purposes, the term “individual” refers to a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) Applicability

This special contract requirement applies to the Contractor and all personnel providing support under this contract (hereafter referred to collectively as “Contractor”) and addresses specific USAID requirements in addition to those included in the Federal Acquisition Regulation (FAR), Privacy Act of 1974 (5 U.S.C. 552a - the Act), E-Government Act of 2002 - Section 208 and Title III, Federal Information Security Management Act (FISMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Pub. L. 104-191, 110 Stat. 1936), the Sarbanes-Oxley Act of 2002 (SOX, Pub. L. 107-204, 116 Stat 745), National Institute of Standards and Technology (NIST), Federal Information Processing Standards (FIPS) and the 800-Series Special Publications (SP), Office of Management and Budget (OMB) memorandums, and other laws, mandates, or

executive orders pertaining to the development and operations of information systems and the protection of sensitive information and data.

(c) Limitations on access to, use and disclosure of Federal information.

- (1) The Contractor shall not access, use, or disclose Government data unless specifically authorized by the terms of this contract issued hereunder.
 - i. If authorized by the terms of this contract issued hereunder, any access to, or use or disclosure of, Federal information shall only be for purposes specified in this contract.
 - ii. The Contractor shall ensure that its employees are subject to all such access, use, and disclosure prohibitions and obligations.
 - iii. These access, use, and disclosure prohibitions and obligations shall remain effective beyond the expiration or termination of this contract.
- (2) The Contractor shall use related Federal information only to manage the operational environment that supports the Federal information and for no other purpose unless otherwise permitted with the prior written approval of the Contracting Officer.

(d) Records Management and Access to Information

- (1) The Contractor shall support a system in accordance with the requirement for Federal agencies to manage their electronic records in accordance with capabilities such as those identified in the provisions of this contract and National Archives and Records Administration (NARA) retention policies.
- (2) Upon request by the government, the Contractor shall deliver to the Contracting Officer all Federal information, including data schemas, metadata, and other associated data artifacts, in the format specified in the schedule or by the Contracting Officer in support of government compliance requirements to include but not limited to Freedom of Information Act, Privacy Act, e-Discovery, e- Records and legal or security investigations.
- (3) The Contractor shall retain and maintain all Federal information in accordance with records retention provisions negotiated by the terms of the contract and in accordance with USAID records retention policies.
- (4) The Contractor shall dispose of Federal information in accordance with the terms of the contract and provide the confirmation of disposition to the Contracting Officer in accordance with contract closeout procedures.

(e) Notification of third-party access to Federal information: The Contractor shall notify the Government immediately of any requests from a third party for access to Federal information or, including any warrants, seizures, or subpoenas it receives, including those from another Federal, State, or Local agency, that could result in the disclosure of any

Federal information to a third party. The Contractor shall cooperate with the Government to take all measures to protect Federal information from any loss or unauthorized disclosure that might reasonably result from the execution of any such request, warrant, seizure, subpoena, or similar legal process.

- (f) Spillage and Information Security Incidents: Upon written notification by the Government of a spillage or information security incident involving classified information, or the Contractor's discovery of a spillage or security incident involving classified information, the Contractor shall immediately (within 30 minutes) notify CIO-HELPDESK@usaid.gov and the Office of Security at SECinformationsecurity@usaid.gov to correct the spillage or information security incident in compliance with agency-specific instructions. The Contractor will also notify the Contracting Officer or Contracting Officer's Representative and the Contractor Facilities Security Officer. The Contractor will abide by USAID instructions on correcting such a spill or information security incident. For all spills and information security incidents involving unclassified and/or SBU information, the protocols outlined above in section (g) and (h) below shall apply.

(g) Information Security Incidents

- (1) Security Incident Reporting Requirements: All Information Security Incidents involving USAID data or systems must be reported in accordance with the requirements below, even if it is believed that the information security incident may be limited, small, or insignificant. USAID will determine the magnitude and resulting actions.

- (i) Contractor employees must report via e-mail all Information Security Incidents to the USAID Service Desk immediately, but not later than 30 minutes, after becoming aware of the Incident, at: CIO-[HELPDESK@usaid.gov](mailto:CIO-HELPDESK@usaid.gov) , regardless of day or time, as well as the Contracting Officer and Contracting Officer's representative and the Contractor Facilities Security Officer.

Contractor employees are strictly prohibited from including any Sensitive Information in the subject or body of any e-mail concerning information security incident reports. To transmit Sensitive Information, Contractor employees must use FIPS 140-2 compliant encryption methods to protect Sensitive Information in attachments to email. Passwords must not be communicated in the same email as the attachment.

- (ii) The Contractor must provide any supplementary information or reports related to a previously reported information security incident directly to CIO-HELPDESK@usaid.gov upon request. Correspondence must include related ticket number(s) as provided by the USAID Service Desk with the subject line "Action Required: Potential Security Incident".

- (h) Privacy Incidents Reporting Requirements: Privacy Incidents may result in the unauthorized use, disclosure, or loss of personally identifiable information, and can result in the loss of the public's trust and confidence in the Agency's ability to safeguard personally identifiable information. PII breaches may impact individuals whose PII is compromised, including potential identity theft resulting in financial loss and/or personal hardship experienced by the individual. Contractor employees must report by e-mail all Privacy Incidents to the USAID Service Desk immediately (within 30 minutes), after becoming aware of the Incident, at: CIO-HELPDESK@usaid.gov, regardless of day or time, as well as the USAID Contracting Officer or Contracting Officer's representative and the Contractor Facilities Security Officer. If known, the report must include information on the format of the PII (oral, paper, or electronic.) The subject line shall read "Action Required: Potential Privacy Incident".
- (i) Information Ownership and Rights: USAID information stored in a cloud environment remains the property of USAID, not the Contractor or cloud service provider (CSP). USAID retains ownership of the information and any media type that stores Federal information. The CSP shall only use the Federal information for purposes explicitly stated in the contract. Further, the cloud service provider shall export Federal information in a machine-readable and non-proprietary format that USAID requests at the time of production, unless the parties agree otherwise.
- (j) Security Requirements:
 - (1) The Contractor shall adopt and maintain administrative, technical, operational, and physical safeguards and controls that meet or exceed requirements contained within the Federal Risk and Authorization Management Program (FedRAMP) Cloud Computing Security Requirements Baseline, current standard for NIST 800-53 (Security and Privacy Controls for Federal Information Systems) and Organizations, including Appendix J, and FedRAMP Continuous Monitoring Requirements for the security level and services being provided, in accordance with the security categorization or impact level as defined by the government based on the Federal Information Processing Standard (FIPS) Publication 199 (FIPS-199).
 - (2) The Contractor shall comply with FedRAMP requirements as mandated by Federal laws and policies, including making available any documentation, physical access, and logical access needed to support this requirement. The Level of Effort for the security assessment and authorization (SA&A) is based on the system's complexity and security categorization. The Contractor shall create, maintain, and update the following documentation using FedRAMP requirements and templates, which are available at <https://www.FedRAMP.gov>.

- (3) The Contractor must support SA&A activities to include assessment by an accredited Third-Party Assessment Organization (3PAO) initially and whenever there is a significant change to the system's security posture in accordance with the FedRAMP Continuous Monitoring Plan. The Contractor must make available to the Contracting Officer, the most current, and any other, Security Assessment Reports for consideration as part of the Contractor's overall Systems Security Plan.
- (4) The Government reserves the right to perform penetration testing or request Penetration Testing by an independent source. If the Government exercises this right, the Contractor shall allow Government employees (or designated third parties) to conduct Security Assessment activities to include control reviews in accordance with FedRAMP requirements. Review activities include but are not limited to scanning operating systems, web applications, databases, wireless scanning; network device scanning to include routers, switches, and firewall, and IDS/IPS; databases and other applicable systems, including general support structure, that support the processing, transportation, storage, or security of Federal information for vulnerabilities.
- (5) Identified gaps between required FedRAMP Security Control Baselines and Continuous Monitoring controls and the Contractor's implementation as documented in the Security Assessment Report must be tracked by the Contractor for mitigation in a Plan of Action and Milestones (POA&M) document. Depending on the severity of the gaps, the Government may require them to be remediated before any restricted authorization is issued.
- (6) The Contractor is responsible for mitigating all security risks found during SA&A and continuous monitoring activities. All high-risk vulnerabilities must be mitigated within thirty (30) calendar days and all moderate risk vulnerabilities must be mitigated within sixty (60) calendar days from the date vulnerabilities are formally identified. USAID may revoke an ATO for any system if it is determined that the system does not comply with USAID standards or presents an unacceptable risk to the Agency. The Government will determine the risk rating of vulnerabilities.
- (7) The Contractor shall provide access to the Federal Government, or their designee acting as their agent, when requested, to verify compliance with the requirements and to allow for appropriate risk decisions for an Information Technology security program. The Government reserves the right to conduct onsite inspections. The Contractor must make appropriate personnel available for interviews and provide all necessary documentation during this review and as necessary for continuous monitoring activities.

- (k) Privacy Requirements: Cloud Service Provider (CSP) must understand and adhere to applicable federal Privacy laws, standards, and guidance to protect Personally Identifiable Information (PII) about individuals that will be collected and maintained by the Contractor solution. The Contractor responsibilities include full cooperation for any request for disclosure, subpoena, or other judicial process seeking access to records subject to the Privacy Act of 1974.
- (l) Data Location: The Contractor must disclose the data server locations where the Agency data will be stored as well as the redundant server locations. The Contractor must have prior Agency approval to store Agency data in locations outside of the United States.
- (m) Terms of Service (ToS): The Contractor must disclose any requirements for terms of service agreements and clearly define such terms prior to contract award. All ToS provisions regarding controlling law, jurisdiction, and indemnification must align with Federal statutes, policies, and regulations.
- (n) Service Level Agreements (SLAs): The Contractor must be willing to negotiate service levels with USAID; clearly define how performance is guaranteed (such as response time resolution/mitigation time, availability, etc.); monitor their service levels; provide timely notification of a failure to meet the SLAs; and evidence that problems have been resolved or mitigated. Additionally, at USAID's request, the Contractor must submit reports or provide a dashboard where USAID can continuously verify that service levels are being met. Where SLAs fail to be met, USAID may assess monetary penalties or service credit.
- (o) Trusted Internet Connection (TIC): The Contractor must route all USAID traffic through the TIC.
- (p) Forensics, Freedom of Information Act (FOIA), Electronic Discovery, or additional Information Requests: The Contractor must allow USAID access required to retrieve information necessary for FOIA and Electronic Discovery activities, as well as forensic investigations for both criminal and non-criminal purposes without their interference in these activities. USAID may negotiate roles and responsibilities for conducting these activities in agreements outside of this contract.
 - (1) The Contractor must ensure appropriate forensic tools can reach all devices based on an approved timetable.
 - (2) The Contractor must not install forensic software or tools without the permission of USAID.
 - (3) The Contractor, in coordination with USAID Bureau for Management, Office of The Chief Information Officer (M/CIO)/ Information Assurance Division (IA), must document and preserve data required for these activities in accordance with the terms and conditions of the contract.

- (4) The Contractor, in coordination with USAID M/CIO/IA, must clearly define capabilities, procedures, roles and responsibilities and tools and methodologies for these activities.
- (q) The Contractor shall include the substance of this special contract requirement, including this paragraph (p), in all subcontracts, including subcontracts for commercial items.

H.17 Information and Communication Technology Accessibility (APRIL 2018)

(a) Definitions

“Information and Communication Technology (ICT) means information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Examples of ICT include, but are not limited to: computers and peripheral equipment; information kiosks and transaction machines; telecommunications equipment; customer premises equipment; multifunction office machines; software; applications; Web sites; videos; and, electronic documents. (Appendix A to Part 1194 – Section 508 of the Rehabilitation Act)

(b) Federal agencies are required by Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), to offer access to information and communication technology for disabled individuals within its employment, and for disabled members of the public seeking information and services. This access must be comparable to that which is offered to similar individuals who do not have disabilities. Standards for complying with this law are prescribed by the Architectural and Transportation Barriers Compliance Board ("The Access Board"). The contractor must comply with any future updates of standards by the Access Board. 36 CFR 1194 implements Section 508 of the Rehabilitation Act of 1973, as amended, and is viewable at <http://www.access-board.gov/sec508/508standards.htm>.

(b) Except as indicated elsewhere in the contract, all ICT procured through this contract must meet the applicable accessibility standards at 36 CFR 1194 as follows:

- 1194.21 Software applications and operating systems
- 1194.22 Web-based intranet and Internet information and applications
- 1194.23 Telecommunications products
- 1194.24 Video and multimedia products
- 1194.25 Self-contained, closed products
- 1194.26 Desktop and portable computers
- 1194.31 Functional performance criteria
- 1194.41 Information, documentation, and support

(c) Deliverable(s) must incorporate these standards as well.

(d) The final work product must include documentation that the deliverable conforms with the Section 508 Standards promulgated by the US Access Board.

(e) The Contractor must comply with 508 standards, and any changes needed to conform to the standards will be at no additional charge to USAID.

H.18 SECURITY

The Contractor must be aware of security conditions in South Sudan, and by entering a contract, assumes full responsibility for the safety of its employees. Prior to commencing work, the Contractor must ensure that it has adequate procedures in place to advise its employees of situations or changed conditions that could adversely affect their security. To keep abreast of security conditions in South Sudan, the Contractor shall seek information from all available sources, including USAID/South Sudan's Partner Liaison Security Office contractor (PLSO) and other sources as directed by the Contracting Officer, for all areas in which its employees work or travel.

The Contractor acknowledges that security conditions are subject to change at any moment, that USAID cannot guarantee the accuracy of any information that it may provide to the Contractor, and that USAID assumes no responsibility for the reliability of such information.

The Contractor has sole responsibility for approving all travel plans for its employees and/or his dependents traveling to post if allowed by the Contractor's personnel internal policies. The Contractor is also responsible for immediately notifying USAID/South Sudan and the U.S. Embassy American Citizen Services section in the event a U.S. citizen employee does not return from travel as expected or does not report to work. If USAID requests the Contractor to do so, the Chief of Party (COP) shall assume responsibility for contacting all of its employees.

The Contractor must provide to the PLSO, or others as directed by the Contracting Officer, the name, current address, and current home and/or cellular telephone number of the COP and of an alternate designated employee. The Contractor is responsible for ensuring that the information on file with the PLSO is up to date so that in an emergency, the COP or alternate representative can be reached immediately, and he/she can rapidly contact all other affected employees. The Contractor is requested to notify the PLSO, copying the Contracting Officer, about any changes of the individual listed in the security plan who are considered in-charge of security.

SECURITY PROTOCOL

The Contractor must develop a security plan to safeguard all project operations. The plan is to be implemented and maintained also by all subcontractors (and/or sub-grantees). The security plan will be reviewed by the Contracting Officer in consultation with the PLSO.

The plan must include:

- Procedures for reporting and addressing security threats.
- Procedures for reporting any deaths related to the project.
- Procedures for reporting and addressing any persons missing or kidnapping incidents.
- Name and contact information of security contact person for the head office and regional office(s).
- An internal “cascade” list for communicating with staff, which should be updated /maintained by the Contractor.

SECURITY REPORTING RESPONSIBILITIES

The Contractor must submit the below reports to the PLSO, and other personnel as directed by the Contracting Officer. The type and frequency of these reports may vary with the project scope, location, and criticality. The Contractor must report an Initial Threat Assessments and subsequent changes as often as the situation requires (weekly, bi-weekly, monthly etc.). The Contractor is also required to notify USAID of any security related incident in a timely manner according to the following guidelines:

Incident Reporting

There are various types of Incident Reporting: Serious Incident Report (SIR); Incident Report (IR); Situation Report (SITREP); and any other security related report that may be required by USAID.

Serious Incident Report (SIR)

- An incident that involves the death, injury, kidnapping of Contractor personnel and/or damage to Contractor property.
- An incident that has critically damaged the funded program, such as fire, catastrophic flood, etc.
- Initial SIR must be reported verbally immediately, and no later than 4 hours of the incident occurrence/discovered.
- A Complete SIR must be filed in writing /email within 24 hours of the incident.

- Updated written SIR must continue to be filed on a timely basis (daily, weekly) as long as the situation exists. The timeline will be adjusted as required by the Contracting Officer
- Final Report SIR will summarize the incident, the subsequent happenings and the final resolution.

Incident Report (IR)

- An incident involving accidents, potential harm, suspicious persons or acts, threats or harassing actions against personnel or the program.
- IR should be initially reported by phone immediately, follow up with a written report filed as soon as possible (within 24 hours). After the incident is evaluated, a complete detailed written report must be submitted later than 72 hours after the incident.

Situation Report (SITREP)

- A report that a significant, but not critical action or activity, has taken place that has impacted, or may impact, on the well-being of the personnel or the success of the program.
- This report may describe trends, secondhand information that may have bearing on the project, or impact on future operations.
- There is no predetermined reporting timeline. The report will be issued as needed and required by PLSO.

Telephonic communication is the preferred method to provide the initial information of an incident. A written report by e-mail must follow as soon as possible within above-described guidelines and it shall be as detailed as possible. The report shall follow the format approved in the original Security Plan but at a minimum it shall contain the name of the company, name of the victim(s), date, time, a description of what happened, where the incident occurred, and any other relevant details surrounding the incident. If this is an ongoing incident, progress reports should be submitted in accordance with the guidelines provided in order to keep USAID/South Sudan personnel apprised of the situation.

H.19 RESERVED

H.20 RESERVED

H.21 DIPLOMATIC SECURITY REQUIREMENTS FOR UNCLASSIFIED DESIGN AND CONSTRUCTION CONTRACTS

***The Contractor must include the substance of H.21, H.22, H.24, and H.25 in all subcontracts.

H.21.1 Handling of SBU/NOFORN Blast Criteria

Blast criteria provided with the contract has been designated SBU/NOFORN (No foreign dissemination). The Contractor shall choose a U.S. owned blast consultant whose "need to know" personnel must be U.S. citizens. Additionally, all SBU/NOFORN material provided with this contract shall be handled, stored, and transmitted in accordance with Section J.1

H.21.1.1 For non-U.S. prime contractors, the prime shall provide the name of the U.S. blast consultant, and the blast consultant's point of contact for security, to the Contracting Officer. Blast criteria will be sent directly to the U.S. consultant, who will return it to the Contracting Officer directly.

H.21.2 US Citizen Pre-Deployment Vetting and Contractor Country Clearance Requests

H.21.2.1 Vetting US Contractors: For prime and subcontractor U.S citizens who will deploy to the project site, the Contractor shall submit personal information to the COR and Site Security Manager (SSM) or Site Security Coordinator (SSC), at least 14 days prior to deployment to site, and prior to, or in conjunction with a Country Clearance Request (CCR).

H.21.2.2 As this contract does not require security clearances, the SSM/SSC will conduct National Criminal Information Center (NCIC) checks. Unfavorable results will be evaluated by the SSM/SSC and COR. Personnel whose NCIC check reflects unfavorable results may be denied deployment authorization and/or access to the site.

The Contractor must submit the following information to the COR and SSM/SSC at least 14 days prior to deployment to site, and in conjunction with, or prior to submittal of Country Clearance Request (CCR):

Full Name of Uncleared Personnel
Place and Date of Birth
Current Address
Social Security Number
Passport Number

If the SSM/SSC and COR determine that an individual should be denied deployment authorization/access to the site, the Contractor will be notified immediately.

H.21.2.3 Country Clearance Requests (CCR): Submission of CCRs will result in official notification to the COR, Site Security Manager (SSM)/Site Security Coordinator (SSC), and Regional Security Officer (RSO) of contractor personnel arriving at site, dates of visit or duration of stay, purpose of visit or employee's position with Contractor, and passport or other identifying information. Contractor electronic Country Clearances (eCCs) may not be approved until/unless favorable NCIC checks have been conducted or favorable investigative data provided. Admission to site by the COR and appropriate badging by SSM are dependent upon receipt of eCCs prior to arrival at site.

Contractor Country Clearance Requests must NOT be submitted for local/TCN labor.

H.21.3 Assignment of Non-U.S. Citizens

U.S. prime Contractors and U.S. subcontractors that desire to assign non-U.S. citizens to any portion of this contract in the United States must obtain prior written approval from the COR. Contractors must provide information regarding the non-U.S. citizen including full name, date and place of birth, country of citizenship, country where passport is issued, passport number, date of issue and expiration and description of services to be provided.

Citizens of countries listed below may not be assigned to perform on this contract in any capacity. The COR and CO reserves the right, in their sole discretion, to determine suitability of contractor personnel to work on design, construction and other diplomatic facilities contracts.

- Belarus
- Cuba
- Iran
- North Korea
- Peoples Republic of China, including Hong Kong
- Russia
- Venezuela
- Vietnam

In addition, for non-U.S. citizens who the prime contractor wishes to assign to work at posts/sites overseas, the contractor must coordinate access approval/investigation as required by Division 1, Section 013550 or as otherwise directed by the COR, SSM, SSC or RSO in writing.

H.21.4 Foreign Subcontractors

Contractor selection of host and third country national subcontractors must be approved by USAID in advance of their final selection. Information concerning potential foreign subcontractors must be submitted to the CO for review by RSO, in reference to design work, within thirty (30) days after contract award. In reference to construction work, information must be submitted to the CO and SSM/SSC/RSO at least forty (40) days before the start of site activities by the foreign subcontractor.

Two submissions required:

Design: Thirty (30) days after contract award.

Construction: Forty (40) days before start of site activities by the foreign subcontractor.

H.21.4.1 Security Screening of Foreign Subcontractors for Site Work Foreign subcontractors will be subject to security screening procedures as required by the SSM, SSC and/or RSO. Government denial of subcontractors for security reasons can be made without providing the rationale for the denial. SSMs/SSCs/RSOs will take into consideration whether proposed companies and/or their management have undesirable associations with terrorist, mafia or organizations/governments which are “hostile to the U.S.”, do not have good standing in the local business community, are owned or operated by those on the Prohibited Countries List, or any other security concerns.

H.21.4.2 Required Information: Potential foreign subcontractors will be required to furnish the following information:

- Complete names, nationality, date and place of birth, citizenship, and position/title (if appropriate) of:
 - all individuals having ownership of the firm;
 - all key officers of the firm;
 - all key officers who will work on this project;
- Complete business address and telephone number;
- A listing of all major projects in which the firm was involved during the past 3 years;
- A listing of all projects involving the firm outside of the country in which the firm is based, for the past 5 years.
- Contractor's base country and base country identification number, if any.

H.21.4.3 Non-US firms owned or operated by firms or citizens on the Prohibited Countries List, will not be approved for use in any capacity. US-based firms, branch offices, or subsidiaries, which are owned by firms or citizens on the Prohibited Countries List, will not be approved for use in any capacity.

H.21.4.4 Information Shared with Local/Host Country Government Agencies

The Contractor, if required to share information with local/host country government agencies, must ensure that SBU/NOFORN (No Foreign Dissemination) is not disclosed to the host government. Any project information to be shared with foreign/host country government agencies must be approved in writing by the COR and CO prior to initial release. Drawings depicting interior layouts shall be sanitized of SBU labels and shall be sanitized to “egress” equivalent level. Spaces shall only be identified using the terms office, reception area, corridor, restroom, mechanical spaces, support space, etc. Drawing packages should include only those sheets necessary to meet the requirements of the requesting host country agency. Full Set A drawing packages should never be provided. Unclassified and SBU markings shall be replaced with “Not for Public Release” and the following should appear on every sheet: “WARNING: This document is the property of the U.S. Government. Further reproduction and/or distribution is prohibited without the express written approval of: USAID, ATTN: Fill this in with appropriate Post officer, or POC” The Contractor must not make any commitments regarding what information will be provided by the U.S. Government or the Contractor for the purpose of obtaining local approvals, including, but not limited to, permits, waivers, insurance, etc.

If required to submit a building permit application package (or any other documentation which requires release of drawings) to the host country government, the Contractor shall first submit a sanitized Set A drawing package to the COR specifically for review to ensure appropriate sanitization of drawings. A cover sheet or attachment containing the following language must be signed by the permitting agency prior to provision of the approved sanitized drawing package:

- Information related to US diplomatic facilities is not authorized for public disclosure. It must be handled in a way that limits its exposure to persons who do not have a clear need to utilize the information. The US Government’s goal in restricting diplomatic facility planning and construction documents is to ensure the safety of the US citizens and locally employed staff who will work out of the facility upon its completion, against the threat of terrorism or agencies hostile to the US or local governments.
- All documentation and plans submitted as part of the Building Permit Application are considered sensitive and should only be reviewed by the authorities granting the building permit. These documents and plans may not be released to the public or outside the permitting authority without the express written approval of USAID, ATTN: Fill in appropriate Post officer, or POC. The transmission of any portion of this package via the Internet is strictly prohibited by the US Government.

H.21.5 Use of the Excerpts from the Classification Guide for Identification and Handling Sensitive But Unclassified (SBU) and SBU/NOFORN (No Foreign Dissemination) Information.

All documents, such as blueprints, drawings, sketches, notes, surveys, reports, photographs, exposed film, negatives, specifications, scopes of work, lists of Government Furnished Equipment and any other material received or generated in conjunction with this contract shall be reviewed for identification of SBU and SBU/NOFORN information including as Attachments hereto. These attachments identify the specific types of information associated with diplomatic construction projects that must be protected as Sensitive But Unclassified, and describe the marking, handling, and transmission requirements for such information.

H.21.5.1 All documents associated with this construction project must be protected, transmitted, carried, and stored through positive control at all times. Additionally, all SBU, SBU/NOFORN, and unclassified, proposed, and actual construction documents will be marked with a prohibition against duplication or dissemination without prior approval from the COR.

H.21.5.2 The Contractor, and any associated subcontractors, must maintain a chain of custody log for each transport or dissemination of SBU materials outside their facility, whether they are transported domestically or overseas. The chain of custody log shall be available for review by USAID or DS upon demand.

H.21.5.3 The Contractor must ensure proper sensitivity identification, handling, and transmission of all project documentation. The Contractor must be responsible for bearing any costs resulting from errors determined by the Contracting Officer to be the fault of contractor mishandling, mislabeling of sensitivity, or improper transmission of project information.

H.21.5.4 The loss, compromise, or suspected compromise or loss of any information (documents, notes, drawings, sketches, surveys, reports, exposed film, negatives, or photographs) or information that may adversely affect the security interests of the United States, must be immediately brought to the attention of the CO and COR.

H.21.5.5 Hand-carrying SBU Overseas SBU and unclassified project documentation may be hand-carried overseas by contractor personnel. The contractor must maintain positive, personal control over documentation at all times.

H.21.6 Photographs taken at site

Photographs of any diplomatic overseas building or facility must be authorized in advance by the COR and RSO/SSM/SSC, who will establish any controls, limits, and/or restrictions as necessary. No further dissemination, publication, duplication, or other use beyond that which was requested and approved is authorized without specific, advance approval from DS. DS

reserves the right to demand retention of all copies of said photographs and/or negatives, following fulfillment of the previously authorized usage.

H.21.6.1 Photographs to be published on company websites or any other public medium must be sent to the Contracting Officer for review prior to any posting or release. Any corresponding or related text to be included with photos must also be provided to the CO at the same time for review prior to any release.

H.21.7 Disposition and Retention of Project Information

All SBU material, including copies and reproductions and SBU information stored on electronic media, received, or generated in the performance of this contract, must be returned to the CO upon completion of the project unless the material has been destroyed. SBU material must be returned or destroyed within 120 days after final delivery of project drawings and specifications and any other services: or 120 days after completion or termination of the contract.

H.21.7.1 All unsuccessful bidders and/or prospective Subcontractors must be required to return or certify destruction of all SBU material to the CO within 30 days after the contract has been awarded, prime or subcontractor has been notified of non-receipt of award, or as otherwise directed by the CO.

H.21.8 Electronic Transmission Security

Transmission of Sensitive But Unclassified (SBU) information via the Internet is prohibited. SBU information may be submitted via US mail, GSA Schedule 48 commercial carriers or fax, hand-carried by authorized contractor personnel, or via an approved electronic means authorized by the CO in writing. The CO will provide written instructions at the contract kickoff meeting.

H.21.8.1 The Electronic Processing Media must be encrypted using any NIST approved product. (NIST approved products can be found at <http://csrc.nist.gov/groups/STM/cmvp/validation.html>). An overwrite utility software must be used to remove all previous data in the following manner: A first overwrite pass using the number '1'; A second overwrite pass using the number '0'; and a third overwrite pass using ANY character.

H.21.8.2 COR and SSM/SSC/RSO may require review and approval of plans to hand-carry any electronic items onto or off the site. The contractor, and any subcontractors, who must bring electronic media onto the site, must submit to the COR/SSM/SSC/RSO, in advance of arrival, the electronic equipment to be brought on site, the purpose of the electronic equipment, the approved encryption package on the equipment and the length of time the equipment will be

on site. If advance notice of electronic equipment is not submitted to the COR and SSM/SSC/RSO, the COR and SSM/SSC/RSO may deny access of the equipment onto the site until the above listed information has been submitted and reviewed. Prior to approval of introduction of electronic equipment to the site for any reason, the SSM/SSC/RSO may require a briefing acknowledgement to be signed.

H.21.8.3 Electronic media which contains project information MUST be hand-carried at all times. This equipment must NOT be checked with luggage. It must remain in the carrier's possession at all times. Any loss or compromise of electronic media containing project information must be reported to the COR, CO, and SSM/SSC/RSO immediately.

H.21.8.4 Thumb drives, jump drives and other portable storage devices - Downloading project information at the site onto thumb drives, jump drives or other portable storage devices onto which project information can be downloaded, is prohibited unless specifically authorized in writing by the COR and SSM/SSC/RSO. Requests to utilize these portable storage devices must include certification that a NIST approved product (including the product name and version) will be utilized to encrypt the portable storage device. A listing of NIST approved products for these storage devices can be found at <http://csrc.nist.gov/groups/STM/cmvp/validation.html>. Authorized users must have an SSM briefing and sign a briefing acknowledgement regarding their responsibility to safeguard such media. Domestically, authorized users must be briefed by their FSO and sign a briefing acknowledgement regarding their responsibility to safeguard such media. Any loss or compromise of storage devices containing project information must be reported to the COR/SSM/SSC/RSO and CO immediately.

H.21.8.4.1 Hardcopy SBU documents and drawings to be removed from the site: The COR/SSM/SSC/RSO may require advanced approval to remove any SBU or unclassified drawings and documents from the site for the purpose of working off-site after hours. The contractor must comply with site security requirements regarding removal of any USAID information.

H.21.9 Computer Equipment in Contractor Offices at the Site

Contractor site office and all subcontractor site office individual computer hard-drives (including laptops) and server hard-drives must be encrypted using any product on the IT CCB list, or any NIST approved product (found at <http://csrc.nist.gov/groups/STM/cmvp/validation.html>). Contractor site office copiers, scanners and all other electronic media shall be password protected to prevent unauthorized use, access and downloading of SBU and project sensitive information by unauthorized users. Site offices containing computers, scanners, printers, hardcopy and electronic storage media must be locked against unauthorized access when not in use. A copy of the keys to every office or space containing project information must be available to the SSM/SSC/RSO at all times.

H.21.9.1 Subcontractor site office computers, copiers, scanners, and all other electronic media NOT owned and retained by the prime contractor, must be sanitized of all project information upon completion of the project, and/or prior to sale, re-use, or disposal, unless specific approval for retention is obtained from the COR, through the prime contractor. Local and Third Country National (TCN) subcontractors are not authorized to retain electronic project documentation after completion of the project without specific approval from the CO.

H.21.9.2 Information stored in computer drives must be overwritten using commercially available wiping software in the following manner:
Execute the wiping program against all files in storage. Once that is complete, overwrite all remaining free space on the drive and then defrag the files on the drive.

H.21.9.3 Prime Contractor site office computers, copiers, scanners, and all other electronic media destined for sale or disposal must be sanitized of all project information prior to sale or disposal. Prime Contractor equipment destined for re-use on other projects or returned to Contractor's domestic facility do not have to be sanitized but must be handled and shipped as SBU material.

H.21.9.4 CDs and other storage media which cannot be sanitized must be returned to the prime contractor's facility for appropriate storage or destruction.

H.21.9.5 Completion of the above requirement regarding sanitization will be certified to the COR as part of the closeout procedures detailed in Division 1 Specifications (Temporary Facilities and Controls), and (Execution of Closeout Procedures).

H.21.9.6 If computers, scanners, copiers or other electronic media must be temporarily removed from the site for repair or other service, the COR and SSM/SSC/RSO shall be informed, in writing, prior to removal. COR and SSM/SSC/RSO may require sanitization of all information from the equipment, or may implement other security requirements, such as escort of equipment while it is being serviced/repared.

H.21.10 Project Generated Waste – Disposal/Destruction Plan

H.21.10.1 Domestic Contractor Facility:

The Contractor must develop a wastepaper disposal/destruction plan for all paper documents and drawings generated at the Contractor's facility. Wastepaper includes any project documentation related to personnel matters, working papers, delivery schedules, vendor correspondence, project schedules, warranty and equipment manuals, any drawings regardless of sensitivity and all other project related paper. All paper produced at the Contractor's facility

must be collected separately from refuse, garbage and material, and disposed of in accordance with the Contractor's plan. Contractor must provide appropriate means of disposal of up to Sensitive But Unclassified (SBU) information. All project-related paper waste must be destroyed by an NSA-approved cross-cut shredder, burned beyond reconstruction, or disintegrated. Project related waste paper must not be put into commercial trash containers for removal from the facility.

H.21.10.2 Project Site:

The Contractor must develop and submit to the COR and SSM/SSC/RSO a waste paper disposal/destruction plan for all paper documents and drawings generated at the site. Wastepaper includes any project documentation related to personnel matters, working papers, delivery schedules, vendor correspondence, project schedules, warranty and equipment manuals, any drawings regardless of sensitivity and all other project related paper. All paper produced in Contractor and subcontractor's site offices shall be collected separately from refuse, garbage and material, and disposed of in accordance with plan submitted to, and approved by, the COR and SSM. Contractor shall provide appropriate means of disposal of up to Sensitive But Unclassified (SBU) information. All project-related paper waste must be destroyed by an NSA-approved cross-cut shredder, burned beyond reconstruction, or disintegrated. Project related waste paper must not be put into commercial trash containers for removal from site. Contractor should also take care to appropriately dispose of sensitive packing material and boxes which indicate temporary or permanent technical security equipment installed at the site. Contract Division 1 Section 013550 requires the Contractor to provide two NSA approved shredders at the site.

H.21.10.3 SBU and unclassified project documentation may be hand-carried back to Contractor facility for storage/disposal. Contractor must maintain positive, personal control over documentation at all times.

H.21.11 Overseas Off-Site Offices (temporary offices, local subcontractor offices, etc.)

If any project information (unclassified or SBU) will be stored at off-site locations (temporary offices, local subcontractor offices, etc.), the Contractor must obtain written approval from the COR, in consultation with the SSM/SSC/RSO. Proposals to store any project information in the host country at off-site locations must detail, at minimum, the following:

- the responsible party (prime, local subcontractor, vendor, etc.)
- the location of the office/space where information is to be stored
- the name, address and nationality of the landlord/lessor (space may not be leased from citizens/firms on the Prohibited Countries List)
- the method to be employed to secure SBU information when not in use (lockable containers to which only authorized project personnel have access)

- an emergency notification and reporting plan for suspected compromise of the premises, information, or any emergency such as fire or break-in.

H.21.11.1 Individual computer hard-drives (including laptops) and server hard-drives on which project information will be processed at off-site locations, must be encrypted using any product on the IT CCB list, or any NIST approved product (found at <http://csrc.nist.gov/groups/STM/cmvp/validation.html>), to preclude loss of information due to unauthorized access, theft or other emergency. Contractor off-site copiers, scanners and all other electronic media must be password protected to prevent unauthorized use, access and downloading of SBU and project sensitive information by unauthorized users.

H.21.11.2 Off-site office computers, copiers, scanners and all other electronic media NOT owned and retained by the prime contractor, must be sanitized of all project information upon completion of project, and/or prior to sale, re-use, or disposal, unless specific approval for retention is obtained from the COR, through the prime contractor. Local and TCN subcontractors are not authorized to retain electronic project documentation without specific approval from the CO.

H.21.11.3 A plan must be developed for disposal/destruction of off-site project related wastepaper, similar to the on-site plan specified in H.21.10.2 and shall be submitted to the COR and SSM for review and approval. Project related wastepaper must not be put into commercial trash containers for removal from off-site offices.

H.21.12 DoS Briefings at Posts/Sites Overseas

Upon arrival at an overseas Post/Site, all American personnel may be afforded the opportunity to attend initial and subsequent periodic security briefings by the responsible SSM, SSC, RSO or designee. Debriefings may be requested of individual contract employees by Diplomatic Security, either at post prior to departure and/or at the contractor's location.

H.21.13 Operational Security

Avoid discussing site, mission and post activities while not on site or post, to include in hotel rooms, restaurants and all other public places. Eavesdroppers can pick up small pieces of information from conversations and add to other information to get a clearer picture of our operations, missions and vulnerabilities at post.

H.21.14 Reporting Suspicious Contacts

Any contact with host or third country nationals that seems suspicious (such as an inordinate amount of curiosity as to the purpose of presence in the country) or attempts to establish

recurring contact beyond routine professional or personal services, must be reported immediately to the COR and SSM/SSC/RSO. All contractors at the project site must adhere to the foreign contact reporting requirements specific to each project site, as briefed by the SSM/SSC/RSO, which may include all unofficial contact with nationals from specific HUMINT threat countries, the reporting of close and continuing social contact with foreign nationals, cohabitation with foreign nationals, and non-project related personal business and/or financial relationships with any foreign nationals.

H.21.15 Removal of individual contractor employees

Removal of individual contractor employees for cause Misconduct or unsuitability documented by the COR, SSM or Regional Security Officer (RSO) may result in the removal of a contractor employee from site, or from contract performance at a domestic facility. This may include but is not limited to, the following:

H.21.15.1 Notoriously disgraceful conduct, to include, but not limited to: the solicitation of prostitutes, engaging in public or promiscuous sexual relations, spousal abuse, neglect or abuse of children, manufacturing or distributing pornography, entering into debts the employee could not pay, or making use of one's position or immunity to profit or to provide favor to another or to create the impression of gaining or giving an improper favor.

H.21.15.2 Failure to report notoriously disgraceful conduct and/or non-compliance of other employees (USAID, contractor, or foreign national) in accordance with existing Post and USAID policies.

H.21.15.3 Neglect of duty, unsatisfactory performance, unreasonable delays or failure to carry out assigned tasks, conducting personal affairs during official time, refusing to render assistance/cooperate in upholding the integrity of the objectives of this contract.

H.21.15.4 Falsification or unlawful concealment, removal, mutilation or destruction of any document or record, or concealment of material facts by willful omissions from documents or records. Improper use of credentials, badges or official papers.

H.21.15.5 Disorderly conduct, use of abusive or offensive language, quarreling, intimidation by words or actions, or fighting. Participation in disruptive activities that interfere with the normal efficient operations of the worksite.

H.21.15.6 Theft, vandalism, immoral conduct, or any other criminal action under U.S. or host country law.

H.21.15.7 Selling, consuming or being under the influence of drugs, or other illegal substances that produce similar effects.

H.21.15.8 Abuse of alcohol.

H.21.15.9 Any evidence that would indicate that the individual is guilty of security violations including black market dealings, currency manipulation, violations of the post-contact policy regarding criteria country nationals, espionage, or treason.

H.21.15.10 Noncompliance with site/post security and reporting policies.

H.22 SAFEGUARDING OF INFORMATION

The Contractor and its employees must exercise the utmost discretion in regard to all matters relating to their duties and functions. They shall not communicate to any person any information known to them by reason of their performance of services under this contract which has not been made public, except to the extent necessary to perform their required duties in the performance of the contract requirements or as provided by written authorization of the Contracting Officer. All documents and records (including photographs) generated during the performance of work under this contract shall be for sole use of and must become the exclusive property of the U.S. Government. No article, book, pamphlet, recording, broadcast, speech, television appearance, film or photograph concerning any aspect of the work performed under this contract shall be published or disseminated through any media, including company websites, without the prior written authorization of the Contracting Officer. These obligations do not cease upon the expiration or termination of this contract or at any other point in time. The Contract must include the substance of this provision in all subcontracts hereunder.

The Contractor must notify the Contracting Officer if any legal dispute arises between the Contractor and any subcontractor or vendor pertaining to performance on this contract which could potentially result in disclosure of any information related to design, construction or maintenance of a diplomatic facility overseas. Legal disputes include legal actions submitted to civil, criminal, local or federal courts, as well as disputes submitted to arbitration or mediation. This responsibility to notify the Contracting Officer must not cease upon the expiration or termination of this contract. The Contractor hereby agrees to be responsible for all costs associated with the release, whether authorized or unauthorized, of "Sensitive but Unclassified" or "Sensitive but Unclassified – NOFORN (No Foreign Dissemination) information for which the contractor or a subcontractor at any level is responsible, including releases associated with legal disputes, and agrees to fully indemnify the government for any expense that the government incurs as a result of the release or use of "Sensitive but Unclassified" or "SBU NOFORN" information including all costs associated with steps taken by the government to mitigate

exposure in anticipation of the use of "Sensitive but Unclassified" or SBU/NOFORN information in legal disputes and/or costs which result from mitigation of the release of "Sensitive but Unclassified" or SBU/NOFORN information. This indemnity agreement made herein by the contractor includes all disputes with, between, and among the Contractor and any party and the contractor's sub-contractors, to the lowest tier and any party. This agreement by the Contractor to fully indemnify the government must not cease upon the expiration or termination of this contract. The Contractor must include the substance of this provision in all subcontracts.

H.23 HANDLING OF SENSITIVE BUT UNCLASSIFIED - NO FOREIGN DISSEMINATION (SBU/NOFORN)

Blast criteria provided with this contract, if applicable, has been designated SBU/NOFORN (No foreign dissemination). The Contractor must choose a U.S. owned blast consultant whose "need to know" personnel must be U.S. citizens. Additionally, all SBU/NOFORN material provided to the offerors shall be handled, stored, transmitted and returned to the Contracting Officer.

H.24 PUBLIC RELEASE OF INFORMATION

There must be no public release of information or images concerning any aspect of the design, construction, or other services relating to this contract, or other documents resulting therefrom, without the written prior approval of the Contracting Officer. The Contractor must include the substance of this provision in all subcontracts hereunder.

H.25 DOCUMENTS - OWNERSHIP AND USE

H.25.1 Ownership and Use of Drawings, Specifications, Software, and Models.

H.25.1.1 Ownership. All drafts, revisions, and versions of specifications, drawings, software code, databases, and models (digital, tangible, and scale), and all copies thereof, generated in the performance of the Contract or furnished to the USG in the performance of the Contract ("Documents") shall be and are the exclusive property of USAID.

H.25.1.2 Use and Return. Unless otherwise provided in the contract, the Documents must not be used by anyone on other work; and, with the exception of the signed contractor set, all copies thereof must be delivered to the USG upon or before final completion of the work under the Contract.

H.25.2 Supplemental Documents.

The CO may furnish from time to time such detailed drawings and other information as is considered necessary, in the opinion of the CO, to interpret, clarify, supplement, or correct

inconsistencies, errors or omissions in the Contract documents, or to describe minor changes in the work not involving an increase in the contract price or extension of the contract time. The Contractor must comply with the requirements of the supplemental documents. Unless a prompt objection is made by the Contractor within 20 days, their issuance must not provide for any claim for an increase in the Contract price or an extension of contract performance period.

H.25.3 Record Documents.

During the performance of the Contract work, the Contractor must maintain at the project site a current, marked set of Contract drawings and specifications indicating all interpretations and clarifications, contract modifications, change orders, and any other departure from the Contract requirements approved by the CO, and a complete set of record shop drawings, product data, samples and other submittals as approved by the CO.

H.25.4 “As-Built” Documents.

With the request for inspection for Substantial Completion, the Contractor must provide complete sets of “as-built” drawings based upon the record set of drawings, marked to show the details of construction as actually accomplished, and record shop drawings and other submittals, in the number and form as required by the specifications. Final As-Built Documents submittal shall be provided after Final Completion but before Final Acceptance and shall incorporate any additional changes.

H.26 LIMITATION ON MARK UPS FOR CHANGE ORDERS AND CONTRACT MODIFICATIONS

In the event the Government elects to direct a change order or enter into a contract modification that increases the scope of work during the course of performance of this contract, the following limitations and requirements apply:

A. Definitions

1. Labor

Effort expended by people for wages or salary. Generally classified as either direct or indirect. Direct labor is applied to meeting project objectives and is a principal element used in costing, pricing, and profit determination; indirect labor is a component of indirect cost, such as overhead or general and administrative costs.

2. Material

Any product or substance specified for use in the construction of a project.

3. Equipment

All the machinery, tools, and apparatus necessary for the proper construction and acceptable completion of a project.

B. Authorization

The prior written authorization of the Contracting Office is required for all additional work which will utilize force account work procedures.

C. Allowable Costs (applicable to the Contractor and subcontractors at all tiers)

1. Payroll cost for employees in the direct employ of the Contractor in the performance of the work. Such employees shall include superintendents, foremen and other personnel employed full time on the work. Payroll costs for employees not employed full time on the work shall be apportioned on the basis of their time spent on the work. Payroll costs shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing work outside of regular working hours, on Saturday, Sunday or legal holidays shall be included in the above to the extent authorized by the Owner.
2. Cost of all materials furnished and incorporated in the work, including applicable taxes, customs fees, and costs of transportation and storage thereof.
3. The rental cost of construction equipment used in the construction of the work, including operating costs for the hours actually worked. Equipment rental rates and operating costs shall be as provided in the edition of the Rental Rate Blue Book current at the time of Notice to Proceed.
4. Payments made by the Contractor to Subcontractors for work performed by Subcontractors.
5. Supplemental Costs
 - i. The proportion of necessary transportation, travel, and subsistence expenses Contractor employees incurred in the discharge of duties connected with the work.
 - ii. Cost of office and temporary facilities at the site, including office supplies.
 - iii. Cost of hand tools not owned by the workers which are consumed in the performance of the work and cost less market value, of such items used but not consumed which remain the property of the Contractor.
 - iv. The cost of utilities and sanitary facilities at the site.
 - v. The cost of premiums for all bonds and insurance the Contractor is required by the Contract Documents to purchase and maintain.

D. Cost Excluded (applicable to the Contractor and subcontractors at all tiers)

1. Payroll costs and other compensation of Contractor's officers, executives, principals general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by the Contractor, whether

at the Site or in the Contractors' principal or branch office for general administration of the work.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the site.
3. Any part of the Contractor's capital expenses, including interest of the Contractor's capital employed for the work and charges against Contractor for delinquent payments.
4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
5. Other overhead or general expense cost of any kind and the costs of any item not specifically and expressly included in the paragraph entitled "Allowable Costs".

E. Contractor's Fee (applicable to the Contractor and subcontractors at all tiers)

The Contractor's fee to cover excluded costs, overhead, and profit shall be determined as follows:

For change orders and contract modifications below \$100,000 of allowable costs, the fee must not exceed 20% of the allowable costs.

For change orders and contract modifications between \$100,000 and \$500,000 of allowable costs, the fee must not exceed 15% of the allowable costs.

For change orders and contract modifications above \$500,000 of allowable costs, the fee must not exceed 10% of the allowable costs.

The total amount of the allowable cost to the Government is used when determining the limit to apply at the Contractor and all subcontractor levels.

F. Documentation

Whenever the cost of the work for any purpose is to be determined pursuant to paragraphs C and D, the Contractor must establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to the Government an itemized cost breakdown together with supporting data.

[END OF SECTION H]

SECTION I

I.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

NUMBER	TITLE - FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)	DATE
52.202-1	DEFINITIONS	JUN 2020
52.203-2	CERTIFICATE OF INDEPENDENT PRICE DETERMINATION	APR 1985
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEE	MAY 2014
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	JUN 2020
52.203-7	ANTI-KICKBACK PROCEDURES	JUN 2020
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	MAY 2014
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	MAY 2014
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	JUN 2020
52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT	JUN 2020
52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS	JUN 2020
52.203-19	PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS	JAN 2017

52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER	MAY 2011
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	JAN 2011
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS	JUN 2020
52.204-13	SYSTEM FOR AWARD MANAGEMENT MAINTENANCE	OCT 2018
52.204-21	BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS	JUN 2016
52.204-25	PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT	AUG 2020
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	JUN 2020
52.209-9	UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS	OCT 2018
52.215-2	AUDIT AND RECORDS--NEGOTIATION	JUN 2020
52.215-8	ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT	OCT 1997
52.222-50	COMBATING TRAFFICKING IN PERSONS	OCT 2021
52.223-18	CONTRACTOR POLICY TO BAN TEXT MESSAGING WHILE DRIVING	JUN 2020
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	FEB 2021
52.225-14	INCONSISTENCY BETWEEN ENGLISH VERSION AND TRANSLATION OF CONTRACT	FEB 2000
52.227-14	RIGHTS IN DATA – GENERAL	MAY 2014
52.228-3	WORKER’S COMPENSATION INSURANCE (DEFENSE BASE ACT)	JUL 2014
52.228-7	INSURANCE--LIABILITY TO THIRD PERSONS	MAR 1996

52.228-15	PERFORMANCE AND PAYMENT BONDS—CONSTRUCTION	JUN 2020
52.229-6	TAXES—FOREIGN FIXED-PRICE CONTRACTS	FEB 2013
52.232-5	PAYMENTS UNDER FIXED PRICE CONSTRUCTION CONTRACTS	MAY 2014
52.232-8	DISCOUNTS FOR PROMPT PAYMENT	FEB 2002
52.232-17	INTEREST	MAY 2014
52.232-18	AVAILABILITY OF FUNDS	APR 1984
52.232-22	LIMITATION OF FUNDS	APR 1984
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	MAR 2023
52.233-1	DISPUTES	MAY 2014
	ALTERNATE I	DEC 1991
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 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
52.236-16	QUANTITY SURVEYS	APR 1984
52.236-17	LAYOUT OF WORK	APR 1984
52.236-21	SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION CONTRACTOR	FEB 1997
52.236-24	WORK OVERSIGHT IN ARCHITECT-ENGINEER CONTRACTS	APR 1984
52.236-25	REQUIREMENTS FOR REGISTRATION OF DESIGNERS	JUN 2003
52.236-26	PRECONSTRUCTION CONFERENCE	FEB 1995
52.242-2	PRODUCTION PROGRESS REPORTS	APR 1991
52.242-13	BANKRUPTCY	JUL 1995
52.243-4	CHANGES	JUN 2007
52.244-2	SUBCONTRACTS ALTERNATE I	JUN 2020
52.244-4	SUBCONTRACTORS AND OUTSIDE ASSOCIATES AND CONSULTANTS (ARCHITECT-ENGINEER SERVICES)	AUG 1998
52.244-6	SUBCONTRACTS FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES	JUN 2023
52.246-12	INSPECTION OF CONSTRUCTION	AUG 1996
52.246-21	WARRANTY OF CONSTRUCTION	MAR 1994
52.246-25	LIMITATION OF LIABILITY--SERVICES	FEB 1997

52.227-4	PATENT INDEMNITY--CONSTRUCTION CONTRACTS - ALTERNATE I	DEC 2007
52.247-64	PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS	FEB 2006
52.248-3	VALUE ENGINEERING – CONSTRUCTION	OCT 2020
52.249-2	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) ALTERNATE III	SEP 1996
52.249-10	DEFAULT (FIXED-PRICE CONSTRUCTION)	APR 1984
52.253-1	COMPUTER GENERATED FORMS	JAN 1991

I.2 AIDAR 752.252-1 AIDAR SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (MAR 2015)

This solicitation incorporates one or more 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. Also, the full text of all AIDAR solicitation provisions is contained in the Code of Federal Regulations (CFR) located at 48 CFR chapter 7.

NUMBER	TITLE -	DATE
752.202-1	DEFINITIONS	JAN 1990
752.202-1(b)	USAID DEFINITIONS CLAUSE – GENERAL SUPPLEMENT FOR USE IN ALL USAID CONTRACTS	JAN 1990
752.202-1(d)	USAID DEFINITIONS CLAUSE – SUPPLEMENT FOR USAID CONTRACTS INVOLVING PERFORMANCE OVERSEAS (ALTERNATE 72)	JUN 2009
752.204-2	SECURITY REQUIREMENTS	FEB 1999
752.209-71	ORGANIZATIONAL CONFLICTS OF INTEREST DISCOVERED AFTER AWARD	JUN 1993

752.211-70	LANGUAGE AND MEASUREMENT	JUN 1992
752.222-70	USAID DISABILITY POLICY	DEC 2004
752.222-71	NONDISCRIMINATION	JUN 2012
752.225-70	SOURCE AND NATIONALITY REQUIREMENTS	FEB 2012
752.227-14	RIGHTS IN DATA—GENERAL	OCT 2007
752.228-3	WORKER’S COMPENSATION INSURANCE (DEFENSE BASE ACT) (DEC 1991) [(DEVIATION JUN 2022)]	JUN 2022
752.228-7	INSURANCE-LIABILITY TO THIRD PERSONS	JULY 1997
752.228-70	MEDICAL EVACUATION (MEDVAC) SERVICES	JUL 2007
752.231-71	SALARY SUPPLEMENTS FOR HG EMPLOYEES	MAR 2015
752.231-72	CONFERENCE PLANNING AND REQUIRED APPROVALS	APR 2020
752.236-70	STANDARDS FOR ACCESSIBILITY FOR THE DISABLED IN USAID CONSTRUCTION CONTRACTS	JULY 2007
752.242-70	PERIODIC PROGRESS REPORTS	OCT 2007
752.7004	EMERGENCY LOCATOR INFORMATION	JUL 1997
752.7005	SUBMISSION REQUIREMENTS FOR DEVELOPMENT EXPERIENCE DOCUMENTS	SEP 2013
752.7006	NOTICES	APR 1984
752.7007	PERSONNEL COMPENSATION	JUL 2007
752.7008	USE OF GOVERNMENT FACILITIES OR PERSONNEL	APR 1984
752.7009	MARKING	JAN 1993
752.7010	CONVERSION OF U.S. DOLLARS TO LOCAL CURRENCY	APR 1984
752.7013	CONTRACTOR-MISSION RELATIONSHIPS	JUN 2020
752.7015	USE OF POUCH FACILITIES	JUL 1997

752.7019	PARTICIPANT TRAINING	JAN 1999
752.7025	APPROVALS	APR 1984
752.7027	PERSONNEL	DEC 1990
752.7029	POST PRIVILEGES	JUL 1993
752.7033	PHYSICAL FITNESS	JUL 1997
752.7035	PUBLIC NOTICES	DEC 1991
752.7036	USAID IMPLEMENTING PARTNER NOTICES (IPN) PORTAL FOR ACQUISITION	JUL 2014
752.7037	CHILD SAFEGUARDING STANDARDS	AUG 2016
752.7038	NONDISCRIMINATION AGAINST END-USERS OF SUPPLIES OR SERVICES	OCT 2016
752.7101	VOLUNTARY POPULATION PLANNING ACTIVITIES	

I.3 FAR 52.204-1 APPROVAL OF CONTRACT (DEC 1989)

This contract is subject to the written approval of the Contracting Officer in USAID/South Sudan and shall not be binding until so approved.

I.4 FAR 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUN 1987)

Except for data contained on pages (n/a), it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data--General" clause contained in this contract) in and to the technical data contained in the proposal dated [To be completed at time of award] upon which this contract is based.

I.5 FAR 52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)

The Contractor shall perform on the site, and with its own organization, work equivalent to at least 85% percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction, and the Contracting Officer determines that the reduction would be to the advantage of the Government.

I.6 FAR 52.236-22 DESIGN WITHIN FUNDING LIMITATIONS (APR 1984)

(a) The Contractor shall accomplish the design services required under this contract so as to permit the award of a contract, using standard Federal Acquisition Regulation procedures for the construction of the facilities designed at a price that does not exceed the estimated construction contract price as set forth in paragraph (c) of this clause. When bids or proposals for the construction contract are received that exceed the estimated price, the contractor shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this contract. However, the Contractor shall not be required to perform such additional services at no cost to the Government if the unfavorable bids or proposals are the result of conditions beyond its reasonable control.

(b) The Contractor will promptly advise the Contracting Officer if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, the Contracting Officer will review the Contractor's revised estimate of construction cost. The Government may, if it determines that the estimated construction contract price set forth in this contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in paragraph (c) of this clause, or the Government may adjust such estimated construction contract price. When bids or proposals are not solicited or are unreasonably delayed, the Government shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance with the funding limitation.

(c) The estimated construction contract price for the project described in this contract is \$[TBD at time of award].

I.7 52.243-7 NOTIFICATION OF CHANGES (JAN 2017)

(a) *Definitions.* "Contracting Officer," as used in this clause, does not include any representative of the Contracting Officer.

"Specifically Authorized Representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this paragraph and shall be issued to the designated representative before the SAR exercises such authority.

(b) *Notice.* The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for

changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing promptly, within three (3) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state-

- (1) The date, nature, and circumstances of the conduct regarded as a change;
- (2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;
- (3) The identification of any documents and the substance of any oral communication involved in such conduct;
- (4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
- (5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including-
 - (i) What line items have been or may be affected by the alleged change;
 - (ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
 - (iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
 - (iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and
- (6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

(c) *Continued performance.* Following submission of the notice required by paragraph (b) of this clause, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communication from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in paragraph (b) of this clause, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of the SAR shall be reduced to writing promptly and copies furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall promptly countermand any action which exceeds the authority of the SAR.

(d) *Government response.* The Contracting Officer shall promptly, within 14 calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either-

- (1) Confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;
- (2) Countermand any communication regarded as a change;
- (3) Deny that the conduct of which the Contractor gave notice constitutes a change, and when necessary, direct the mode of further performance; or
- (4) In the event the Contractor's notice information is inadequate to make a decision under paragraphs(d)(1), (2), or (3) of this clause, advise the Contractor what additional information is required and establish the date by which it should be furnished and the date thereafter by which the Government will respond.

(e) Equitable adjustments.

- (1) If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and the conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made-
 - (i) In the contract price or delivery schedule or both; and
 - (ii) In such other provisions of the contract as may be affected.
- (2) The contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property, made obsolete or in excess as a result of a change confirmed by the Contracting Officer under this clause, is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's failure to provide notice or to continue performance as provided, respectively, in paragraphs(b) and (c) of this clause.

Note: The phrases "contract price" and "cost" wherever they appear in the clause, may be appropriately modified to apply to cost reimbursement or incentive contracts, or to combinations thereof.

I.8 FAR 52.223-99 ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021) (DEVIATION M/OAA-DEV-FAR-22-01c)

- (a) Definition. As used in this clause - United States or its outlying areas means— (1) The fifty States; (2) The District of Columbia; (3) The commonwealths of Puerto Rico and the

Northern Mariana Islands; (4) The territories of American Samoa, Guam, and the United States Virgin Islands; and (5) The minor outlying islands of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.

(b) Authority. This clause implements Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021 (published in the Federal Register on September 14, 2021, 86 FR 50985).

(c) Compliance. The Contractor shall comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this contract, for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance) at <https://www.saferfederalworkforce.gov/contractors/>.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts at any tier that exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award, and are for services, including construction, performed in whole or in part within the United States or its outlying areas.

I.9 AIDAR 752.7032 INTERNATIONAL TRAVEL APPROVAL AND NOTIFICATION REQUIREMENTS (APR 2014)

Prior written approval by the contracting officer or the contracting officer's representative (COR) if delegated in the Contracting Officer's Representative Designation Letter, is required for all international travel directly and identifiably funded by USAID under this contract. The Contractor must therefore present to the contracting officer or the contracting officer's representative, an itinerary for each planned international trip, showing the name of the traveler, purpose of the trip, origin/destination (and intervening stops), and dates of travel, as far in advance of the proposed travel as possible, but in no event less than three weeks before travel is planned to commence. The contracting officer's or contracting officer's representative (if delegated by the contracting officer) prior written approval may be in the form of a letter or telegram or similar device or may be specifically incorporated into the schedule of the contract. At least one week prior to commencement of approved international travel, the Contractor must notify the cognizant Mission, with a copy to the contracting officer or contracting officer's representative, of planned travel, identifying the travelers and the dates and times of arrival.

I.10 AIDAR 752.245-70 GOVERNMENT PROPERTY—USAID REPORTING

REQUIREMENTS (OCT 2017)

(a) (1) The term Government-furnished property, wherever it appears in the following clause, shall mean (i) non-expendable personal property owned by or leased to the U.S. Government and furnished to the contractor, and (ii) personal property furnished either prior to or during the performance of this contract by any U.S. Government accountable officer to the contractor for use in connection with performance of this contract and identified by such officer as accountable. All mobile Information Technology (IT) equipment, including but not limited to, mobile phones (e.g. smartphones), laptops, tablets, and encrypted devices provided as government furnished property, title to which vests in the U.S. Government, are considered accountable personal property.

(2) The term Government property, wherever it appears in the following clause, shall mean Government-furnished property, Contractor acquired mobile IT equipment and non-expendable personal property title to which vests in the U.S. Government under this contract.

(3) Non-expendable personal property, for purposes of this contract, is defined as personal property that is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and that has a unit cost of more than \$500.

(b) Reporting Requirement: to be inserted following the text of the (48 CFR) FAR clause.
Reporting Requirements: The contractor will submit an annual report on all nonexpendable property in a form and manner acceptable to USAID substantially as follows:

ANNUAL REPORT OF GOVERNMENT PROPERTY IN CONTRACTOR'S CUSTODY [Name of contractor as of (end of contract year), 20XX]

	Motor vehicle s	Furniture and furnishings—		Other nonexpenda ble property
		Office	Living quarters	
A. Value of property as of last report				
B. Transactions during this reporting period				
1. Acquisitions (add):				

a. Contractor acquired property (1)				
b. Government furnished (2)				
c. Transferred from others, without reimbursement (3)				
2. Disposals (deduct):				
a. Returned to USAID				
b. Transferred to USAID—contractor purchased				
c. Transferred to other Government agencies (3)				
d. other disposals (3)				
C. Value of property as of reporting date				
D. Estimated average age of contractor held property				
	Years	Years	Years	Years

1 Non-expendable property and all mobile IT equipment.

2 Government furnished property listed in this Contract as nonexpendable or accountable, including all mobile IT equipment.

3 Explain if transactions were not processed through or otherwise authorized by USAID.

Property Inventory Verifications

I attest that (1) physical inventories of Government property are taken not less frequently than annually; (2) the accountability records maintained for Government property in our possession are in agreement with such inventories; and (3) the total of the detailed accountability records maintained agrees with the property value shown opposite line C above, and the estimated average age of each category of property is as cited opposite line D above.

Authorized Signature

Name _____

Title _____

Date _____

I.11 AIDAR 752.229-71 REPORTING OF FOREIGN TAXES (JULY 2007)

- (a) The contractor must annually submit a report by April 16 of the next year.
- (b) Contents of report. The report must contain:
 - 1) Contractor name.
 - 2) Contact name with phone, fax number and email address.
 - 3) Contract number(s).
 - 4) Amount of foreign taxes assessed by a foreign government [each foreign government must be listed separately] on commodity purchase transactions valued at \$500 or more financed with U.S. foreign assistance funds under this agreement during the prior U.S. fiscal year.
 - 5) Only foreign taxes assessed by the foreign government in the country receiving U.S. assistance are to be reported. Foreign taxes by a third-party foreign government are not to be reported. For example, if a contractor performing in Lesotho using foreign assistance funds should purchase commodities in South Africa, any taxes imposed by South Africa would not be included in the report for Lesotho (or South Africa).
 - 6) Any reimbursements received by the contractor during the period in paragraph (b)(4) of this clause regardless of when the foreign tax was assessed and any reimbursements on the taxes reported in paragraph (b)(4) of this clause received through March 31.
 - 7) Report is required even if the contractor did not pay any taxes during the reporting period.
 - 8) Cumulative reports may be provided if the contractor is implementing more than one program in a foreign country.
- (c) Definitions. As used in this clause—
 - 1) Agreement includes USAID direct and country contracts, grants, cooperative agreements and interagency agreements.
 - 2) Commodity means any material, article, supply, goods, or equipment.
 - 3) Foreign government includes any foreign governmental entity.
 - 4) Foreign taxes means value-added taxes and customs duties assessed by a foreign government on a commodity. It does not include foreign sales taxes.
- (d) Where. Submit the reports to: PayableJuba@usaid.gov
- (e) Sub Agreements. The contractor must include this reporting requirement in all applicable subcontracts and other sub agreements.
- (f) For further information see <http://2001-2009.state.gov/s/d/rm/c10443.htm>

[END OF SECTION I]

SECTION J – LIST OF ATTACHMENTS

ATTACHMENT 1 – LIST OF ACRONYMS

ATTACHMENT 2 – DIVISION 01 GENERAL REQUIREMENTS:

ATTACHMENT 3 - 90% DESIGN DRAWINGS OF RC KITCHEN

ATTACHMENT 4 –CHAPTER 12 OF THE OBO BUILDING CODE _ NOISE LEVEL

ATTACHMENT 5 - US EMBASSY SOUTH SUDAN 2023 HOLIDAY SCHEDULE

ATTACHMENT 6 – PAST PERFORMANCE REFERENCE SHEET

ATTACHMENT 7 – SF LLL - DISCLOSURE OF LOBBYING ACTIVITIES

ATTACHMENT 8 - NOTIFICATION RE IMPLEMENTATION OF FAR 52.223-99

[END OF SECTION J]

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SECTION K - REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

K.1 NOTICE LISTING SOLICITATION PROVISIONS INCORPORATED BY REFERENCE

The following solicitation provisions pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the FAR provision at FAR "52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE" in Section L of this solicitation. See FAR 52.252-1 for an internet address (if specified) for electronic access to the full text of a provision.

NUMBER	TITLE- FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)	DATE
52.203-11	CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	SEP 2007
52.204-19	INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS	DEC 2014
52.209-2	PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS—REPRESENTATION	NOV 2015
52.222-38	COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS	FEB 2016
52.225-25	PROHIBITION ON CONTRACTING WITH ENTITIES ENGAGING IN CERTAIN ACTIVITIES OR TRANSACTIONS RELATING TO IRAN—REPRESENTATION AND CERTIFICATIONS	JUN 2020
52.236-27	SITE VISIT (CONSTRUCTION) (ALTERNATE I)	FEB 1995
52.236-28	PREPARATION OF PROPOSALS-CONSTRUCTION	OCT 1997

K.2 FAR 52.203-18 PROHIBITION ON CONTRACTING WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS-REPRESENTATION (JAN 2017)

(a) Definition. As used in this provision-

“Internal confidentiality agreement or statement, subcontract, and subcontractor”, are defined in the clause at 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements.

- (b) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use funds appropriated (or otherwise made available) for contracts with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
- (c) The prohibition in paragraph (b) of this provision does not contravene requirements applicable to Standard Form 312, (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.
- (d) Representation. By submission of its offer, the Offeror represents that it will not require its employees or subcontractors to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a Government contract to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (e.g., agency Office of the Inspector General).

K.3 FAR 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (MAR 2023)(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 236220 [insert NAICS code].

(2) The small business size standard is _____ [insert size standard].

(3) The small business size standard for a concern that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce is 500 employees, or 150 employees for information technology value-added resellers under NAICS code 541519 if the acquisition—

(i) Is set aside for small business and has a value above the simplified acquisition threshold;

(ii) Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or

(iii) Is an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(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.

(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 is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied [part 19](#) in accordance with [19.000\(b\)\(1\)\(ii\)](#).

(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 is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied [part 19](#) in accordance with [19.000\(b\)\(1\)\(ii\)](#).

(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 products or commercial services.

(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 solicitations 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 II and III.) This provision applies to solicitations containing the clause at [52.225-3](#).

(A) If the acquisition value is less than \$50,000, the basic provision applies.

(B) If the acquisition value is \$50,000 or more but is less than \$92,319, the provision with its Alternate II applies.

(C) If the acquisition value is \$92,319 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 Certifications. 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:

[Contracting Officer check as appropriate.]

___ (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.

(d) The offeror has completed the annual representations and certifications electronically in SAM website 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)

Alternate I (MAR 2023). As prescribed in [4.1202](#) (a), substitute the following paragraph (a) for paragraph (a) of the basic provision:

(a)(1) The North American Industry Classification System (NAICS) codes and corresponding size standards for this acquisition are as follows; the categories or portions these NAICS codes are assigned to are specified elsewhere in the solicitation:

K.4 FAR 52.204-24 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (OCT 2020)

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at [52.204-26](#), Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at [52.212-3](#), Offeror Representations and Certifications-Commercial Items. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at [52.204-26](#), or in paragraph (v)(2)(ii) of the provision at [52.212-3](#).

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

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition*.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services

as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(d) *Representation.* The Offeror represents that—

(1) It ☐ will, ☐ will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It ☐ does, ☐ does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) Disclosures.

(1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

K.5 FAR 52.204-26 COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES—REPRESENTATION (OCT 2020)

(a) *Definitions.* As used in this provision, "covered telecommunications equipment or services" and "reasonable inquiry" have the meaning provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(c)

(1) *Representation.* The Offeror represents that it ☐ does, ☐ does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(2) After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it ☐ does, ☐ does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

K.6 FAR 52.209-5 CERTIFICATION REGARDING RESPONSIBILITY MATTERS (AUG 2020)

(a)

(1) The Offeror certifies, to the best of its knowledge and belief, that—

(i) The Offeror and/or any of its Principals—

(A) Are ☐ are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have ☐ have not ☐, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks “have”, the offeror shall also see [52.209-7](#), if included in this solicitation);

(C) Are ☐ are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;

(D) Have ☐, have not ☐, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at [9.104-5\(a\)\(2\)](#) for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) *Examples.*

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to

request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(ii) The Offeror has ☐ has not ☐, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principal," for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

K.7 FAR 52.209-12 CERTIFICATION REGARDING TAX MATTERS (OCT 2020)

(a) This provision implements section 523 of Division B of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts.

(b) If the Offeror is proposing a total contract price that will exceed \$5.5 million (including options), the Offeror shall certify that, to the best of its knowledge and belief, it

(1) Has ☐ filed all Federal tax returns required during the three years preceding the certification;

(2) Has not ☐ been convicted of a criminal offense under the Internal Revenue Code of 1986; and

(3) Has not ☐, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

(End of provision)

K.8 FAR 52.209-13 VIOLATION OF ARMS CONTROL TREATIES OR AGREEMENTS – CERTIFICATION (NOV 2021)

(a) This provision does not apply to acquisitions at or below the simplified acquisition threshold or to acquisitions of commercial products and commercial services as defined in Federal Acquisition Regulation [2.101](#).

(b) *Certification.* [Offeror shall check either (1) or (2).]

___ (1) The Offeror certifies that–

(i) It does not engage and has not engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act ([22 U.S.C. 2593a](#)). The report is available at

<https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/>; and

(ii) No entity owned or controlled by the Offeror has engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act ([22 U.S.C. 2593a](https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/)). The report is available at

<https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/>; or

___ (2) The Offeror is providing separate information with its offer in accordance with paragraph (d)(2) of this provision.

(c) Procedures for reviewing the annual unclassified report (see paragraph (b)(1) of this provision). For clarity, references to the report in this section refer to the entirety of the annual unclassified report, including any separate reports that are incorporated by reference into the annual unclassified report.

(1) Check the table of contents of the annual unclassified report and the country section headings of the reports incorporated by reference to identify the foreign countries listed there. Determine whether the Offeror or any person owned or controlled by the Offeror may have engaged in any activity related to one or more of such foreign countries.

(2) If there may have been such activity, review all findings in the report associated with those foreign countries to determine whether or not each such foreign country was determined to be in violation of its obligations undertaken in an arms control, nonproliferation, or disarmament agreement to which the United States is a party, or to be not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. For clarity, in the annual report an explicit certification of non-compliance is equivalent to a determination of violation. However, the following statements in the annual report are not equivalent to a determination of violation:

(i) An inability to certify compliance.

(ii) An inability to conclude compliance.

(iii) A statement about compliance concerns.

(3) If so, determine whether the Offeror or any person owned or controlled by the Offeror has engaged in any activity that contributed to or is a significant factor in the determination in the report that one or more of these foreign countries is in violation of its obligations undertaken in an arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. Review the narrative for any such findings reflecting a determination of violation or non-adherence related to those foreign countries in the report, including the finding itself, and to the extent necessary, the conduct giving rise to the compliance or adherence concerns, the analysis of compliance or adherence concerns, and efforts to resolve compliance or adherence concerns.

(4) The Offeror may submit any questions with regard to this report by email to NDAA1290Cert@state.gov. To the extent feasible, the Department of State will respond to such email inquiries within 3 business days.

(d) Do not submit an offer unless—

(1) A certification is provided in paragraph (b)(1) of this provision and submitted with the offer;
or

(2) In accordance with paragraph (b)(2) of this provision, the Offeror provides with its offer information that the President of the United States has

(i) Waived application under [22 U.S.C. 2593e](#)(d) or (e); or

(ii) Determined under [22 U.S.C. 2593e](#)(g)(2) that the entity has ceased all activities for which measures were imposed under [22 U.S.C. 2593e](#)(b).

(e) *Remedies.* The certification in paragraph (b)(1) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly submitted a false certification, in addition to other remedies available to the Government, such as suspension or debarment, the Contracting Officer may terminate any contract resulting from the false certification.

(End of provision)

K.9 FAR 52.230-1 COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (JUN 2020)

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. Disclosure Statement-Cost Accounting Practices and Certification

(a) Any contract in excess of the lower CAS threshold specified in Federal Acquisition Regulation (FAR) 30.201-4(b) resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.

(b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

Caution: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

(c) Check the appropriate box below:

(1) ☐ *Certificate of Concurrent Submission of Disclosure Statement.* The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows:

(i) Original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable; and

(ii) One copy to the cognizant Federal auditor.

(Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official.)

Date of Disclosure Statement: _____ Name and Address
of Cognizant ACO or Federal Official Where Filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

(2) ☐ *Certificate of Previously Submitted Disclosure Statement.* The offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____ Name and Address of
Cognizant ACO or Federal Official Where Filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

(3) ☐ *Certificate of Monetary Exemption.* The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling \$50 million or more in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

(4) ☐ *Certificate of Interim Exemption.* The offeror hereby certifies that (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under paragraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

Caution: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. Cost Accounting Standards-Eligibility for Modified Contract Coverage

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

☐ The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal

was submitted, the offeror received less than \$50 million in awards of CAS-covered prime contracts and subcontracts. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

Caution: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$50 million or more.

III. Additional Cost Accounting Standards Applicable to Existing Contracts

The offeror shall indicate below whether award of the contemplated contract would, in accordance with paragraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

☐ Yes ☐ No

Alternate I (Apr1996). As prescribed in [30.201-3\(b\)](#), add the following paragraph (c)(5) to Part I of the basic provision:

☐ (5) *Certificate of Disclosure Statement Due Date by Educational Institution.* If the offeror is an educational institution that, under the transition provisions of 48 CFR 9903.202-1(f), is or will be required to submit a Disclosure Statement after receipt of this award, the offeror hereby certifies that (check one and complete):

☐ (i) A Disclosure Statement Filing Due Date of _____ has been established with the cognizant Federal agency.

☐ (ii) The Disclosure Statement will be submitted within the 6-month period ending _____ months after receipt of this award.

Name and Address of Cognizant ACO or Federal Official Where Disclosure Statement is to be Filed:

K.10 FAR 52.230-7 PROPOSAL DISCLOSURE—COST ACCOUNTING PRACTICE

CHANGES (APR 2005)

The offeror shall check “yes” below if the contract award will result in a required or unilateral change in cost accounting practice, including unilateral changes requested to be desirable changes.

☐ Yes ☐ No

If the offeror checked “Yes” above, the offeror shall—

- (1) Prepare the price proposal in response to the solicitation using the changed practice for the period of performance for which the practice will be used; and
- (2) Submit a description of the changed cost accounting practice to the Contracting Officer and the Cognizant Federal Agency Official as pricing support for the proposal.

K.11 INSURANCE—IMMUNITY FROM TORT LIABILITY

The Offeror represents that it [] is, [] is not a State agency or charitable institution, and that it [] is not immune, [] is partially immune, [] is totally immune from tort liability to third persons.

K.12 AUTHORIZED NEGOTIATORS

The Offeror represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations:

[list names, titles, and telephone numbers of the authorized negotiators].

K.13 SIGNATURE

By signature hereon, or on an offer incorporating these Representations, Certifications, and Other Statements of Offerors, the offeror certifies that they are accurate, current, and complete, and that the offeror is aware of the penalty prescribed in 18 U.S.C. 1001 for making false statements in offers.

Solicitation No. _____

Offer/Proposal No. _____

Date of Offer _____

Name of Offeror _____

Typed Name and Title_____

Signature_____ Date_____

(END OF CERTIFICATE)

[END OF SECTION K]

[INTENTIONALLY LEFT BLANK]

SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

L.1 NOTICE LISTING SOLICITATION PROVISIONS INCORPORATED BY REFERENCE

The following solicitation provisions pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the FAR provision at FAR "52.252-1 entitled "SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)" in Section L of this solicitation. See FAR 52.252-1 for an Internet address (if specified) for electronic access to the full text of a provision. Also, the full text of a contract clause may be accessed electronically at: <http://www.arnet.gov/far/> or <http://www.usaid.gov/>.

NUMBER	TITLE- FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)	DATE
52.204-7	SYSTEM FOR AWARD MANAGEMENT	OCT 2018
52.204-22	ALTERNATIVE LINE-ITEM PROPOSAL	JAN 2017
52.214-34	SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE	APR 1991
52.214-35	SUBMISSION OF OFFERS IN U.S. CURRENCY	APR 1991
52.215-1	INSTRUCTIONS TO OFFERORS—COMPETITIVE ACQUISITION	NOV 2021
52.215-22	LIMITATIONS ON PASS-THROUGH CHARGES IDENTIFICATION OF SUBCONTRACTOR EFFORT	OCT 2009
52.222-56	CERTIFICATION REGARDING TRAFFICKING IN PERSONS COMPLIANCE PLAN	OCT 2020
52.222-24	PRE-AWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE EVALUATION	FEB 1999

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

The Government contemplates awarding a single Firm-Fixed-Price (FFP) contract resulting from this solicitation.

L.3 52.233-2 SERVICE OF PROTEST (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 Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

Kevin M. Sampson
Supervisory Contracting Officer
USAID/South Sudan/OAA
C/O 4420 Juba Place
Washington, DC 20521-4420
Email: ksampson@usaid.gov

A copy of the protest shall also be sent to William Buckhold, Asst. General Counsel.

William Buckhold
GC/LE, RM#6.06-071 RRB
1300 Pennsylvania Ave, NW
Washington DC 20523
Email: wbuckhold@usaid.gov
Ph: 202-216-3058
Fax Number: 202-216-3058

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

I.4 GENERAL INSTRUCTIONS TO OFFERORS

The U.S. Government anticipates awarding one FFP contract. USAID reserves the right to award more than the anticipated number of contracts stated above.

RFP Instructions. Proposals must be submitted in accordance with the RFP instructions and requirements. If an Offeror does not follow the instructions or requirements set forth herein, the Offeror's proposal may be eliminated from further consideration or the proposal may be downgraded and not receive full or partial credit under the applicable evaluation criteria.

If an Offeror does not understand the instructions in this solicitation, then the Offeror must write to the Contracting Officer and seek clarification before the closing date and time for

questions in the cover letter. All questions will be answered in writing and these answers will become an amendment to the RFP and posted on the Government Point of Entry. Offerors must direct all questions to the Contracting Officer and the Acquisition and Assistance Specialist named below. Offerors must not direct questions to any other USAID personnel.

All questions must be in writing. Answers to questions that are not presented as an amendment to this RFP are considered informal and shall not bind the Government. Questions in response to this solicitation must be submitted in writing only to wabully@usaid.gov, and jluty@usaid.gov by the date and time set forth in the cover letter of this RFP.

Accurate and Complete Information. Offerors must set forth full, accurate and complete information as required by this RFP. The penalty for making false statements to the Government is prescribed in 18 U.S.C. 1001.

Pre-award Survey. USAID reserves the right to perform a pre-award survey which may include, but is not limited to:

- 1) Interviews with individuals to establish their ability to perform contract duties under the project conditions and schedule.
- 2) A review of the prime contractor's financial condition, business, and personnel procedures, etc.
- 3) Visits to the candidate contractor's institution; and
- 4) Visits to the candidate contractor's ongoing job sites.

However, USAID is under no obligation to perform any of the forgoing activities. Accordingly, Offerors should submit their best proposal initially.

Offer Acceptability. The Government may determine an offer to be unacceptable if the offer does not comply with all the terms and conditions of the RFP and prospective contract.

For Phase One proposals:

Offerors are required to indicate the duration of the validity of their offer. USAID recommends at least 180 days of validity from the date the offer is submitted to allow sufficient time to evaluate proposals and complete negotiations.

Offerors must retain for their records one copy of the proposal and all enclosures that accompany their proposal. Erasures or other changes must be initiated by the person signing the proposal. To facilitate the competitive review of the proposals, USAID will consider only proposals conforming to the format prescribed below.

Government Obligation: The issuance of this solicitation does not in any way obligate the US Government to award a contract nor does it commit the U.S. Government to pay for costs incurred in the preparation and submission of a proposal. Furthermore, the Government reserves the right to reject any and all offers, if such action is considered to be in the best interest of the Government.

For Phase Two submissions:

If two or more parties have formed a partnership or joint venture (see FAR 9.6) for purposes of submitting a proposal under this RFP as a single entity, such proposal will be considered, provided; the corporate charter, by laws and/or joint venture or partnership agreement are submitted with the proposal; and provided that the contractor team arrangements are identified, company relationships are fully disclosed, the respective responsibilities, including identification of the firm which will have responsibility for negotiation of the contract, method of work, expense and overhead allocation and profit or fee are expressly stipulated, and provided further, that the principals to the joint venture agreement agree to be jointly and severally liable for the acts or omission of the other. Moreover, a written memorandum shall be submitted explaining why the joint venture makes sense in the performance of this contract, in terms of skills each joint venture brings to the activity and the cost involved, including fee and overhead. Documentation required by this subsection shall be included in an Offeror's business proposal.

This RFP is written in the Uniform Contract Format described in Federal Acquisition Regulation (FAR) section 15.406. Offerors are encouraged to familiarize themselves with the Uniform Contract Format. This will facilitate their understanding of the terms and conditions of this solicitation, the instructions which follow, and the source selection process

Offerors must submit their Phase One and Past Performance proposals, referencing the RFP number and title in the subject line via email to **Warran Bully wabully@usaid.gov**; and Juma Luty at jluty@usaid.gov by the stated closing date and time specified in the Cover Letter. Receipt time is when the proposal is received by the USAID Internet server. If a proposal is received on time by at least one of the email addresses above, it will be considered timely. A proposal must be received by the Government by the due date and time for it to be considered.

The proposal must be accompanied by a cover letter typed on official organizational letterhead and signed by a person who has signatory authority for the organization. Total email size cannot exceed 20 MB. Multiple emails may be sent to accommodate the proposal size and content. All attachments must be in MS Word, Adobe PDF, or MS Excel readable format. Offerors **MUST** not submit zipped files.

While PDF files are acceptable, Microsoft Word and Excel are the preferred formats. Please note, however, that any budgets submitted in PDF format **MUST** also be included in MS Excel format with formulas shown. All electronic files must be “unlocked”.

If an Offeror sends an application by multiple emails, indicate in the subject line of the email whether the email relates to the technical or cost proposal, and the desired sequence of multiple emails (if more than one is sent) and of attachments (e.g. "no. 1 of 4", etc.). USAID's preference is that each technical and/or each cost proposal be submitted as a single email attachment, e.g. that you consolidate the various parts of a technical proposal into a single document before sending it.

For Section K, Offerors must comply with FAR Clause 52.204-7, System for Award Management and complete the annual representations and certifications electronically via the Online Representations and Certifications and other Statements of Offerors website at via the System for Award Management, www.sam.gov.

USAID is utilizing the two-phase design-build procedures in accordance with FAR 36.3. Offerors must follow the requirements for submission for each phase. More detailed instructions for submission will be provided for Offerors who proceed to Phase Two.

L.5 INSTRUCTIONS FOR THE PREPARATION OF PHASE ONE PROPOSAL

Phase One proposals must be submitted at the same time and in two parts: Technical Proposal and Past Performance Proposal. Each must be separate and distinct files, without referring to the other part. The proposal must be signed by an individual authorized to negotiate for and bind the entire organization.

A. Technical Proposal

The technical proposal is limited to fifteen (15) pages. All pages, cover to cover are included in the page limitation. Any pages beyond the 15-page limit will **NOT** be given to the evaluators and will not be evaluated. Technical proposals must be written in English on A4-size, paper and typed using Calibri 12-point font size with each page numbered consecutively and submitted in Microsoft Word and/or PDF. Proposals must be legible.

The technical proposal must be organized according to and address the Phase One evaluation factors in Section M, meaning it will have three main sections. The outline for the technical proposal is specified below.

Required order:

1. **Cover Letter**

2. **Design and Procurement Phase Technical Approach:**

The Design and Procurement Phase Technical Approach section must outline how the Offeror will implement the activities and meet the requirements of the contract to complete the provided 90% engineering designs into a 100% engineering design package, value engineering, and procure/deliver necessary equipment and materials. This must describe the critical activities proposed for the design phase including the proposed approach to overcome challenges and meet schedule requirements.

3. **Technical Qualifications:**

The Technical Qualifications section must demonstrate the Offeror's experience and technical competence in the work required under this contract.

4. **Rapid Mobilization for the Construction Phase**

Offerors must provide a draft strategy to rapidly and effectively field staff and launch project activities post award. This is to demonstrate the ability to quickly mobilize and initiate construction.

B. Past Performance Proposal

Past performance is used to evaluate the quality of an Offeror's prior performance and is evaluated on the basis of how well the Offeror performed the same or similar efforts on past or current contracts and how that past performance is likely to affect the current effort.

Offerors must prepare and submit a past performance proposal as part of the Phase One proposal submission. There is a maximum of 20 pages for the Past Performance Information section but must include:

- Past Performance Information Cover Page
- Tab 1 - Past Performance Matrix
- Tab 2 – Small Business Concern Performance Matrix

This Past Performance Matrix will be utilized for the evaluation of (Past Performance) described in Section M.2.

Past Performance Information Cover Page

The cover page must include (a) Project Title; (b) RFP Reference Number; (c) Name of Organization(s) submitting proposal; (d) Any Partnerships, including specifying if more than 20%

of the total proposed cost is anticipated to be performed by such other organization; and (e) Contact Person, Telephone Number, Email Address, and Address.

Past Performance Matrix

a) Contractor Performance Information

There is no specific form for the Past Performance Matrix. The Offeror must provide performance information for itself, the contractor teaming arrangements, if any, and each major subcontractor in accordance with the following:

1. List a **maximum of five** of the most recent (e.g., within the past 5 years) and relevant projects that best illustrate the Offeror's performance for services similar to those described in Section C. If an Offeror (and/or its major partners/subcontractors) does not have a minimum of three relevant projects, the Offeror should affirmatively state such information.
2. For all projects listed above, the Past Performance Matrix should include for each of the projects:
 - (a) Project title and/or contract reference number.
 - (b) Identify whether a CPARS report is available for this activity.
 - (c) Description of the performance to include (*not to exceed 100 words*):
 - Scope of work or complexity/diversity of tasks,
 - Primary location(s) of work
 - Term of performance,
 - Skills/expertise required,
 - Dollar value, and
 - Contract type, i.e., fixed-price, cost reimbursement, etc.
 - (d) For all contracts in which a report is not in CPARS, provide a list of contact names, job titles, mailing addresses, phone numbers, email addresses for each such contract/activity. USAID recommends that you alert the contacts that their names have been submitted and that they are authorized to provide performance information concerning the listed contracts if and when USAID requests it.
3. If extraordinary problems impact any of the referenced contracts, provide a short explanation and the corrective actions taken (FAR 15.305(a)(2)).
4. Describe any quality awards or certifications that indicate exceptional capacity to provide the service or product described in the SOW.

5. Performance in using Small Business (SB) Concerns (as defined in FAR 19.001).

(a) This section is not applicable to offers from small business concerns.

(b) In order for USAID to fully and fairly evaluate performance in this area, all offerors who are not small business concerns must do the following:

- Provide a narrative summary of your organization's use of small business concerns over the past three years. Describe how you actually use small businesses--as subcontractors, as joint venture partners, through other teaming arrangements, etc. Explain the nature of the work small businesses performed--substantive technical professional services, administrative support, logistics support, etc. Describe the extent of your compliance with your SB subcontracting plan(s) or other similar SB incentive programs set out in your contract(s) and explain any mitigating circumstances if goals were not achieved.
- To supplement the narrative summary in the previous bullet, provide a list of the recent three (3) contracts for which you submitted subcontract reports to eSRS (FAR 52.219-9(d)(10) and a copy of any similarly recent subcontracting reports if they were not submitted to eSRS.
- Provide the names and addresses of three SB concerns for us to contact for their assessment of your performance in using SB concerns. Provide a summary of the type of work each SB concern provides to your organization, and the name of a contact person, his/her title, phone number, and e-mail address for each. Performance information will be used for both the responsibility determination and best value decision.

USAID may use performance information obtained from sources other than those identified by the Offeror, including those from existing databases of contractor performance information (especially CPARS) for other performance reports.

Past Performance Reference Form

In addition to using the Contractor Performance Information Retrieval System (CPARS) as one method of obtaining information about and evaluating past performance, USAID will use the "Past Performance Reference Form" (Attachment 6) to request information for awards in which a CPARS is not available for all contracts meeting all of the below criteria:

- period of Performance falling within the last five years; and
- involving kitchen design and construction work

For those activities in which a CPARS report is not available, Offerors must: i) complete the blanks on the form requiring Offeror's information; and ii) forward the Past Performance Reference Form (Attachment 6) for itself and any proposed major partners/subcontractors to the identified contact person of the referenced organization (the referee). The referee must submit the completed questionnaire directly to USAID/South Sudan by the proposal due date specified on the Past Performance Reference Form.

The Contracting Officer may still utilize federal past performance databases or other sources of information for past performance data. The Contracting Officer may independently review other CPARS.

L.6 INSTRUCTIONS FOR THE PREPARATION OF PHASE TWO PROPOSAL

Those Offerors invited to submit Phase Two proposals will receive detailed submission instructions. The Phase Two evaluation factors are listed in Section M. Phase Two proposals will be submitted in two parts, Technical Proposal and Business Proposal. To participate in Phase Two, offerors are highly encouraged to attend a mandatory site visit prior to submitting Phase Two proposals. Details of the site visit will be included in the instructions for Phase Two.

L.6.1. Waivers under FAR Part 4.2101 Prohibition on Covered Telecommunications and Video Surveillance Services and Equipment (December 2021)

(a) This solicitation and any resultant award(s) is subject to the requirements of section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232) as implemented through FAR 52.204-24 and FAR 52.204-25 of this solicitation.

(b) Waivers.

(1) The submission of an offer where the Offeror makes a representation at paragraph (d)(2) of the provision at FAR 52.204–24 that it “does” use covered telecommunications equipment or services will mean the Offeror is seeking a waiver.

As part of the disclosure requirements under the provision FAR 52.204–24 submitted as part of the offer, the Offeror/Contractor must describe the circumstances (including in-country circumstances) where the Offeror/Contractor uses covered technology. This must include an identification of whether the covered technology is provided by communications service-providers, such as internet, cell phone, landline or others; the specific country where it

is used; whether a Section 889-compliant alternative is or is not available in the specific country where the covered technology is being used based on the Offeror's/Contractor's reasonable inquiry; and a description of the presence of any other covered technology, whether it be in any internal systems or elsewhere in the supply chain.

(2) If an existing waiver does not apply, USAID does not guarantee that waiver requests from such an offeror will be considered; USAID may make an award to an offeror that does not require a waiver. Where agency needs do not permit time to obtain a waiver, USAID may move forward and make an award to an offeror that does not require a waiver. Per FAR 4.21, USAID will not make an award to an offeror(s) that does not receive the approved waiver.

(3) Where USAID decides to initiate the formal Agency waiver process:

(i) The CO will require the apparently successful offeror(s) to submit the information in paragraph (4) of this section. Alternately, offerors may provide the information with their initial proposal, at their discretion. Offerors must appropriately mark the appropriate portions of their submission as Proprietary Data where applicable.

(ii) For Indefinite Delivery contracts under (48 CFR) FAR subpart 16.5, waiver requests will be addressed prior to award of the basic contract.

(iii) In the event that the waiver is not approved, the Contracting Officer will notify the offeror.

(4) Additional submission requirements:

(i) A compelling justification for the additional time to implement the requirements under 889(a)(1)(B). The justification must:

- a. State the amount of additional time requested to meet the requirements of the statute (No Agency is authorized to extend beyond August 13, 2022); and
- b. Provide an explanation supporting the requested time period, to include the time required to implement the Phase-out Plan described below.

(ii) A full and complete laydown of the presences of covered telecommunications or video surveillance equipment or services in the entity's supply chain to include:

- a. Complete technical design documentation of where, how, and what covered equipment or services are being used by the Offeror.
- b. Technical architecture diagram of where the covered technologies are being used (for the system, equipment, service); and
- c. Description of how the covered technologies are being used, how often the covered technology is used by the Offeror, and what data traverses the technology.

(iii) A Phase-Out Plan for eliminating the covered equipment or services from the Offeror's systems, including the covered equipment or services identified in the laydown. The Plan must include:

- a. Description of how the Offeror will eliminate all covered equipment or services by the date specified in (4)(i)(b) above.
- b. When applicable, milestones and timeframes for providing updates to the COR on the Phase-Out Plan implementation.
- c. Identification of other available options.
 - i. Replacement of covered equipment and systems, as applicable.
 - ii. Accessibility of the alternative equipment and systems, as applicable; and
 - iii. In the case of covered services, the proposed use and availability of other service provider(s) without the covered technologies in the supply chain.

(iv) Pending waiver requests/Approved waivers:

- a. Pending - Solicitation Number/title/Issuing Office (Mission or USAID/W) of those offers where the CO has requested the information under this provision.
- b. Approved Waivers - Award number/title/Issuing Office (Mission or USAID/W)

[END OF SECTION L]

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SECTION M – EVALUATION FACTORS FOR AWARD

M.1 GENERAL INFORMATION

- a) The Government intends to evaluate Offeror's proposals in accordance with FAR Part 36.301 -- Use of Two-Phase Design-Build Selection Procedures following instructions in Section L and evaluation criteria in Section M of this RFP. Only up to the five most highly-ranked Offerors will be invited to submit Phase Two proposals.
- b) Price is only evaluated and, if appropriate, negotiated during Phase Two. Award will be made to the responsible Offeror whose proposal offers the best value, considering both price and non-price factors, to the Government.
- c) The Government may award a contract without discussions with Offerors in accordance with FAR 52.215-1. Therefore, the Offeror's initial Phase Two proposal, if they're invited to Phase Two, should contain the Offeror's best terms from a price and technical standpoint.
- d) The submitted technical information will be scored by a technical evaluation committee using the technical criteria shown below. The evaluation committee may include industry experts who are not employees of the Government, although only as non-voting members.
- e) Price has not been assigned a weight. All Phase Two evaluation factors other than price, when combined, are equal to price.

M.2 PHASE ONE EVALUATION CRITERIA

The four Phase One evaluation factors are equally weighted.

- **Design and Procurement Phase Technical Approach**
The quality and realism of the offeror's approach to complete the provided 90% design as well as material and equipment procurement phase including logistics, and how likely the approach will lead to meeting contract requirements.
- **Technical Qualifications**
The quality, amount and relevance of the technical qualifications and the capability to perform.
- **Rapid Mobilization Plan**
The quality of the plan, how realistic it is, and the likelihood that it will result in the offeror quickly and effectively launching project activities.

- **Past Performance**

Past performance will be evaluated in accordance with FAR 15.305(a)(2). The contractor performance information (including major subcontractors) determined to be relevant will be evaluated in accordance with the elements below:

- o Quality of product or service, including consistency in meeting goals and targets.
- o Cost control, including forecasting costs as well as accuracy in financial reporting.
- o Schedule, including the timeliness against the completion of the contract, task orders, milestones, delivery schedules, and administrative requirements (e.g., efforts that contribute to or affect the schedule variance).
- o Business relations, addressing the history of professional behavior and overall business-like concern for the interests of the customer, including the Offeror's history of reasonable and cooperative behavior (to include timely identification of issues in controversy), customer satisfaction, timely award and management of subcontracts, cooperative attitude in remedying problems, and timely completion of all administrative requirements.
- o Management of key personnel, including appropriateness of personnel for the job and prompt and satisfactory changes in personnel when problems with clients were identified.
- o For prime Offerors who are not small business concerns, their utilization of Small Business concerns as subcontractors, including efforts in achieving small business participation goals.

An Offeror's performance will not be evaluated favorably or unfavorably when:

- (1) The Offeror lacks relevant performance history,
- (2) Information on performance is not available, or
- (3) The Offeror is a member of a class of Offerors where there is provision not to rate the class against an element.

Past performance will be scored by assigning one of the following confidence ratings:

- o Substantial Confidence - Based on the Offeror's recent/relevant past performance record, the Government has a high expectation that the Offeror will successfully perform the contract requirements.
- o Satisfactory Confidence - Based on the Offeror's recent/relevant past performance record, the Government has a reasonable expectation that the Offeror will successfully perform the contract requirements.
- o Limited Confidence - Based on the Offeror's recent/relevant past performance record, the Government has a low expectation that the Offeror will successfully perform the contract requirements.

- o No Confidence - Based on the Offeror's recent/relevant past performance record, the Government has no expectation that the Offeror will successfully perform the contract requirements.

A "Neutral" score will be given to Offerors who have no record of relevant past performance, or who have a record of relevant past performance that is not extensive. An Offeror's performance will not be evaluated favorably or unfavorably (Neutral rating) when:

- o The Offeror lacks relevant performance history,
- o Information on performance is not available, or
- o The Offeror is a member of a class of Offerors where there is provision not to rate the class against a sub factor.

When this occurs, an Offeror lacking relevant performance history is assigned a "neutral" rating. An exception to this "neutral" rating provision is when non-small businesses prime has no history of subcontracting with small business concerns.

M.3 PHASE TWO TECHNICAL EVALUATION CRITERIA

Phase Two, the technical proposal will be evaluated against the below three criteria. The first two criteria are of equal weight and weigh more than the third criteria.

- **Construction Phase Technical Approach**
The quality and feasibility of the offeror's approach to the construction phase and sequencing of activities and how realistic the approach will lead to meeting contract requirements, including within the completion time specified and while maintaining full Embassy operations.
- **Management and Staffing Plan**
The quality of the management and staffing plan and the extent to which the plan properly delineates the processes, approaches, and staff, including identified Key Personnel, with the appropriate experience commensurate with respective roles and responsibility, which clearly demonstrate an efficient and effective approach to accomplishing the requirements of the contract.
- **Price Evaluation**
Each Offeror's price will be evaluated but will not be assigned a rating. The Government will evaluate the price in accordance with FAR 15.404. Evaluation will include a price analysis to establish the reasonableness of the Offeror's price. The Government reserves the right to conduct a price realism analysis if desired or necessary. A price

evaluation will not be performed where the Offeror's technical proposal is not deemed technically acceptable.

M.4 DETERMINATION OF COMPETITIVE RANGE

A competitive range may be established from Offerors in Phase Two, though the Government intends to award without discussions. The competitive range of Offerors with whom discussions may be conducted (if necessary) will be determined by the Contracting Officer pursuant to FAR 15.306 (c). Offerors are advised that, in accordance with FAR 52.215-1, if the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the contracting officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

M.5 SOURCE SELECTION

In accordance with FAR 52.215-1(f), the Government intends to award a contract or contracts resulting from this solicitation to the responsible Offeror(s) whose proposal(s) represent the best value after evaluation in accordance with the factors as set forth in this solicitation. This procurement utilizes a tradeoff process after Phase One. The Contracting Officer may award to a higher priced Offeror in Phase Two if a determination is made that the higher technical evaluation of that Offeror merits the additional cost/price, and therefore represents the best value to the Government.

[END OF SECTION M]

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