

<b>SOLICITATION, OFFER, AND AWARD</b> <i>(Construction, Alteration, or Repair)</i>	1. SOLICITATION NO. W50S8W23R0001	2. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 28-Apr-2023	PAGE OF PAGES 1 OF 76
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**IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.**

4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO.	6. PROJECT NO. DPEZ 182030
7. ISSUED BY WYOMING AIR NATIONAL GUARD ADMIN OFFICE 217 DELL RANGE BLVD CHEYENNE WY 82009	CODE W50S8W	8. ADDRESS OFFER TO <i>(If Other Than Item 7)</i> CODE  <b>See Item 7</b>
TEL:	FAX:	TEL: FAX:
9. FOR INFORMATION CALL:	A. NAME CHRISTOPHER R. DAVALOS	B. TELEPHONE NO. <i>(Include area code) (NO COLLECT CALLS)</i> 307-772-6887

**SOLICITATION**

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

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS *(Title, identifying no., date):*  
Repair Base Perimeter Fence

- Award will be made to the responsible bidder whose bid conforms to the Request for Proposal (RFP) and is most advantageous to the Government considering price and price related factors.
- Project Title: Repair Base Perimeter Fence Project Number: DPEZ 182030
- The procurement is being solicited as a 100% Certified HubZone Small Business set-aside. The North American Industry Classification Code is 238990. The size standard for Small Business is \$19M.
- The Project magnitude is between \$250,000 and \$500,000.
- All documents including plans and specifications will be available only from SAM.gov. Ensure to follow all directions carefully, this will be a design build project.
- "Funds are not presently available for this acquisition. The Government anticipates funds will become available prior to award as this action has been identified on the National Guard priority list. No contract award will be made until appropriated funds are made available."

11. The Contractor shall begin performance within 30 calendar days and complete it within 365 calendar days after receiving  award,  notice to proceed. This performance period is  mandatory,  negotiable. (See 52.211-10 \_\_\_\_\_.)

12 A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? <i>(If "YES," indicate within how many calendar days after award in Item 12B.)</i> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	12B. CALENDAR DAYS 10
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13. ADDITIONAL SOLICITATION REQUIREMENTS:

- Sealed offers in original and \_\_\_\_\_ copies to perform the work required are due at the place specified in Item 8 by \_\_\_\_\_ (hour) local time \_\_\_\_\_ (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.
- An offer guarantee  is,  is not required.
- All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.
- Offers providing less than 120 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

<b>SOLICITATION, OFFER, AND AWARD (Continued)</b> <i>(Construction, Alteration, or Repair)</i>									
<b>OFFER (Must be fully completed by offeror)</b>									
14. NAME AND ADDRESS OF OFFEROR <i>(Include ZIP Code)</i>					15. TELEPHONE NO. <i>(Include area code)</i>				
					16. REMITTANCE ADDRESS <i>(Include only if different than Item 14)</i>				
					<b>See Item 14</b>				
CODE		FACILITY CODE							
17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within _____ calendar days after the date offers are due. <i>(Insert any number equal to or greater than the minimum requirements stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)</i>									
AMOUNTS		SEE SCHEDULE OF PRICES							
18. The offeror agrees to furnish any required performance and payment bonds.									
19. ACKNOWLEDGMENT OF AMENDMENTS <i>(The offeror acknowledges receipt of amendments to the solicitation – give number and date of each)</i>									
AMENDMENT NO.									
DATE									
20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER <i>(Type or print)</i>					20B. SIGNATURE			20C. OFFER DATE	
<b>AWARD (To be completed by Government)</b>									
21. ITEMS ACCEPTED:									
22. AMOUNT		23. ACCOUNTING AND APPROPRIATION DATA							
24. SUBMIT INVOICES TO ADDRESS SHOWN IN <i>(4 copies unless otherwise specified)</i>				<b>ITEM</b>	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO <input type="checkbox"/> 10 U.S.C. 2304(c) <input type="checkbox"/> 41 U.S.C. 253(c)				
26. ADMINISTERED BY			CODE		27. PAYMENT WILL BE MADE BY:			CODE	
<b>CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE</b>									
<input type="checkbox"/> 28. NEGOTIATED AGREEMENT <i>(Contractor is required to sign this document and return _____ copies to issuing office.)</i> Contractor agrees to furnish and deliver all items or perform all work, requisitions identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications or incorporated by reference in or attached to this contract.					<input type="checkbox"/> 29. AWARD <i>(Contractor is not required to sign this document.)</i> Your offer on this solicitation, is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.				
30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN <i>(Type or print)</i>					31A. NAME OF CONTRACTING OFFICER <i>(Type or print)</i>				
30B. SIGNATURE			30C. DATE		TEL:		EMAIL:		
					31B. UNITED STATES OF AMERICA BY			31C. AWARD DATE	

Section 00 10 00 - Solicitation

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ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	Repair Base Perimeter Fence FFP Provide all professional design and construction services to replace 2,820 linear feet of base perimeter fencing to the 153d Airlift Wing, located Cheyenne, Wyoming IAW Statement of Work (SOW), and attached drawings. FOB: Destination SIGNAL CODE: A PSC CD: Z2PZ	1	Job		
NET AMT					

DELIVERY INFORMATION

CLIN	DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
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0001 365 dys. ANP

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WYOMING AIR NATIONAL GUARD- 153 F9V3CE  
CES  
BROOKS HARRIS  
217 DELL RANGE BLVD  
CHEYENNE WY 82009  
307-772-6838  
FOB: Destination

Section 00 21 00 - Instructions

CLAUSES INCORPORATED BY REFERENCE

52.204-7	System for Award Management	OCT 2018
52.204-16	Commercial and Government Entity Code Reporting	AUG 2020
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
52.222-5	Construction Wage Rate Requirements--Secondary Site of the Work	MAY 2014
52.225-10	Notice of Buy American Requirement--Construction Materials	MAY 2014
252.215-7009	Proposal Adequacy Checklist	JAN 2014
252.215-7013	Supplies and Services Provided by Nontraditional Defense Contractors	DEC 2022

CLAUSES INCORPORATED BY FULL TEXT

52.215-1 INSTRUCTIONS TO OFFERORS--COMPETITIVE ACQUISITION (NOV 2021)

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

“Discussions” are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

“In writing or written” means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

“Proposal modification” is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

“Proposal revision” is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

“Time”, if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) Amendments to solicitations. If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) Submission, modification, revision, and withdrawal of proposals. (1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The first page of the proposal must show--

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;

(iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(3) Submission, modification, revision, and withdrawal of proposals.

(i) Offerors are responsible for submitting proposals, and any modifications, or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.

(ii)(A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and--

(1) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(2) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(3) It is the only proposal received.

(B) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215-5, Facsimile Proposals. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

(4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, Evaluation of Foreign Currency Offers, is included in the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) Offer expiration date. Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).

(e) Restriction on disclosure and use of data. Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall--

(1) Mark the title page with the following legend: This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed--in whole or in part--for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of--or in connection with-- the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets]; and

(2) Mark each sheet of data it wishes to restrict with the following legend: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) Contract award.

(1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. 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.

(5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.

(6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.

(7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the

Government.

(8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

(11) If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

(i) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(ii) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(iii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(iv) A summary of the rationale for award.

(v) For acquisitions of commercial products, the make and model of the product to be delivered by the successful offeror.

(vi) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of provision)

#### 52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a Firm Fixed Priced contract resulting from this solicitation.

(End of provision)

#### 52.228-1 BID GUARANTEE (SEP 1996)

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

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, e.g., bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds, (1) to unsuccessful bidders as soon as practicable after the opening of bids, and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.-

(c) The amount of the bid guarantee shall be 20 percent of the bid price or \$ 3,000,000.00, whichever is less.-

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

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

(End of provision)

#### 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 Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from Christopher Davalos, Contracting Office, 217 Dell Range Blvd, Cheyenne, WY 82009.

Protests to NG Protest Decision Authority shall be filed at:

National Guard Bureau  
Office of the Director of Acquisitions  
ATTN: NGB-AQ-O 111 S. George Mason Dr.  
Arlington, VA 22204  
Email: ng.ncr.ngb-arng.mbx.ngb-task-order-ombudsman@mail.mil

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

(End of provision)

#### 52.236-27 SITE VISIT (CONSTRUCTION) (FEB 1995) – ALTERNATE I (FEB 1995)

(a) The clauses at 52.236-2, Differing Site Conditions, and 52.236-3, Site Investigations and Conditions Affecting the Work, will be included in any contract awarded as a result of this solicitation. Accordingly, offerors or quoters are urged and expected to inspect the site where the work will be performed.

(b) An organized site visit has been scheduled for--  
9:00 AM MDT on 18 May 2023

(c) Participants will meet at--  
Bldg 31 Classroom, 153<sup>rd</sup> Airlift Wing, Cheyenne, WY

(End of provision)

#### 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

www.acquisition.gov

(End of provision)

#### 52.252-5 AUTHORIZED DEVIATIONS IN PROVISIONS (NOV 2020)

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

(b) The use in this solicitation of any Federal Acquisition Regulation (48 CFR Chapter 2) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of provision)

### INSTRUCTIONS

#### INSTRUCTIONS TO OFFERORS

#### Section 00 21 00 INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

#### 1. SCOPE

1.1. You are invited to submit a proposal in response to our Request for Proposal W50S8W-23-R-0001 for Project No. DPEZ-182030 at the 153d Airlift Wing (AW), Wyoming Air National Guard (WYANG), 217 Dell Range Blvd, Cheyenne, WY, 82009. As a result of this solicitation, the Government intends to award a single Firm Fixed Price (FFP) contract to the responsible offeror whose proposal represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.

1.2. This solicitation is set-aside 100% for Certified HubZone small businesses.

#### 2. NOTICE OF PRE-PROPOSAL CONFERENCE

2.1. A pre-proposal conference will be conducted on **18 May 2023 at 9:00 a.m. Mountain Daylight Time (MDT)** for the purposes of briefing on the proposal requirements and answering questions regarding this solicitation. This conference will be held at **153d AW, Civil Engineering Squadron (CES) Building 31, 217 Dell Range Blvd, Cheyenne, WY, 82009**. Interested Contractors are highly encouraged to attend the pre-proposal conference. The site visit will be held following the conference.

2.2. Due to security conditions, all offerors must register to attend this conference and site visit. **Complete and email Attachment 4 – EAL Form 12, visitor Access for all attendees to [christopher.davalos.1@us.af.mil](mailto:christopher.davalos.1@us.af.mil) and [kristopher.kahle@us.af.mil](mailto:kristopher.kahle@us.af.mil).**

2.3. This information must be provided in advance, **not later than 5 business days prior to the meeting**, in order to ensure access to the military base and conference site and ensure adequate seating for the conference attendees. Even if you have access to the base you must register to ensure adequate seating. The furnishing of the above information is voluntary; however, your failure to furnish all or part of the requested information

may result in the Government's denial of your access to the pre-proposal conference. This information will be provided to the Base Security Forces who will authorize your entrance to the site.

2.4. Visitors must pick up their passes at the Installation's Main Entry Gate prior to arrival. You will be required to present the following information upon arrival: (1) Vehicle Registration, (2) Valid Driver's License, (3) Proof of Insurance for Vehicle, and/or (4) Safety Inspection and Car Rental agreement if applicable. Any of the above information furnished by you is protected under the Privacy Act and shall not be released unless permitted by law and/or you have consented to such.

2.5. Information provided at this conference or site visit shall not qualify the terms and conditions of the solicitation and specifications. Terms of the solicitation and specifications remain unchanged unless the solicitation is amended in writing. If an amendment is issued, normal procedures relating to the acknowledgment and receipt of solicitation amendments shall apply.

2.6. A record of the conference shall be made and furnished to all prospective offerors via posting to [SAM.gov](https://sam.gov). The record will include minutes of the meeting, including questions (on a non-attribution basis) and answers.

### 3. FORMAL COMMUNICATION, OFFEROR EXPLANATIONS

3.1. Submit all questions via email to the contracting office at the address shown below. Do NOT contact the A-E or Engineering personnel directly. Doing so will only delay the response to your question.

Subject Line: Reference No. W50S8W-23-R-0001  
Email: [christopher.davalos.1@us.af.mil](mailto:christopher.davalos.1@us.af.mil) and [kristopher.kahle@us.af.mil](mailto:kristopher.kahle@us.af.mil)

**INQUIRIES SHALL BE SUBMITTED VIA EMAIL AND INCLUDE THE FOLLOWING INFORMATION:**

Date of Proposal Inquiry:

From:

Company Name:

Phone Number:

Email address:

Proposal Inquiry: Be specific as to part of solicitation you are questioning.

**3.2.** Any explanation desired by an offeror regarding the meaning or interpretation of the solicitation, or proposals, drawings, specifications, etc. must be requested in writing and with sufficient time allowed for a reply to reach offerors before the submission of their offer.

**3.3.** The Contracting Officer reserves the right to address questions received after the fifth day prior to solicitation closing with those offers deemed compliant and/or in the competitive range after closing. All questions and requests for information (RFI) must be received NOT LATER THAN the fifth working day prior to closing and will be posted not later than two working days prior to closing. OFFERORS ARE STRONGLY ENCOURAGED TO SUBMIT QUESTIONS EARLY IN THIS PROCESS.

**3.4.** Any interpretations made will be in the form of an amendment of the solicitation, drawings, specifications, etc., and will be furnished to all prospective offerors via posting to <https://www.sam.gov>.

**3.4.1.** Receipt by the offeror must be acknowledged in the space provided on the SF 1442 or by returning a signed copy of the amendment by the time set for receipt of proposals. Explanations or instructions given in a form other than an amendment to the solicitation shall not be binding. Questions (on a non-attribution basis) and answers shall be furnished to all prospective offerors via the web site.

**3.4.2.** For security reasons, all technical and engineering data related to this solicitation will be distributed using the <https://www.sam.gov>. Beta.sam.gov is a web-based dissemination tool designed to safeguard acquisition-related information for all Federal agencies. Plans and specifications are uploaded and require Contractors to request explicit access from the Contracting Officer OR export controlled access through DLA.

**3.4.2.1.** Interested offerors must be registered in the System for Award Management (SAM). To register go to: [www.sam.gov](http://www.sam.gov). You will need your Unique Entity Identified (UEI) number to register. Instructions for registering are on the web page. (Please note the registration for access to the secure site takes approximately 15 business days, so plan accordingly.)

**4. AMENDMENTS PRIOR TO DATE SET FOR RECEIPT OF PROPOSALS**

**4.1.** The right is reserved, as the interest of the Government may require, to revise or amend, the specifications or drawings or both prior to and/or after the date set for receipt of proposals as necessary. Such amendments, if any, will be announced by an amendment or amendments to this Request for Proposal. All information relating to this RFP, including pertinent changes/amendments and information prior to the date set for receipt of proposals will be posted at <https://www.sam.gov>.

4.2. Offerors are strongly cautioned to check this site frequently and to “refresh” their web page to ensure they have the latest information.

## **5. WAGE DETERMINATION**

5.1. The Construction Wage Rate Requirements, formerly known as Davis Bacon Wage Rates, are applicable to this project. Current prevailing wage determination(s) at time of issuance of solicitation are included in section 00 73 00.

In the event the current prevailing Wage Determination is changed by the Department of Labor prior to the closing date of the solicitation, the most current wage determination is in effect. Should the wage rate change after closing, but prior to award, the updated Wage Determination will be incorporated by amendment and issued to all offerors that have not been eliminated from the competition. If applicable, these offerors/contractors will be given a reasonable opportunity to provide revised proposals solely to amend proposals due to Wage Determination changes. If the wage determination modification does not change any affected wage rates, then the provisions of FAR 22.404- 5(c)(4) will apply.

5.2. Applicable wage rates can be found at SAM.gov.

## **6. PROPOSAL EXPENSES AND PRE-CONTRACT COSTS**

This RFP does not commit the Government to pay costs incurred in preparation and submission of initial and subsequent proposals or for other costs incurred prior to award of a formal contract.

## **7. REMOVAL OF SECTIONS AT TIME OF AWARD**

Sections 00 21 00, 00 21 16, 00 22 16, 00 45 00 and all exhibits will be physically removed as a result of an award but will be deemed to be incorporated by reference in that award.

## **8. DISPOSITION OF UNSUCCESSFUL PROPOSALS**

In compliance with FAR Subpart 4.8, the Government will retain one copy of all unsuccessful proposals. The Government will destroy extra copies of unsuccessful proposals. No destruction certificate will be provided.

## **9. INFORMATION REGARDING AVAILABILITY OF UTILITY SERVICES**

It has been determined that all reasonable amounts of potable water and electricity, where physically available, used in connection with this project will be furnished to contractor without cost. The offerors will take this into consideration when computing its offer. (FAR Clause 52.236-14, Availability and Use of Utility Services)

## **10. BID BONDS**

A Bid bond is required with submission of the proposal. The bid bond is due on the date as stated on the SF1442 block 13. The bid bond must be on a SF24 form. Rejection of a bid bond shall be in accordance with FAR 28.101-4 Noncompliance with bid guarantee requirements.

## **11. EXCEPTIONS**

If the offeror takes exception to any of the requirements specified in this solicitation, the offeror shall clearly identify each such exception and include a complete explanation of why the exception was taken and what benefit accrues to the Government. All exceptions to the solicitation requirements (Sections 00010 through 00800) and supporting rationale shall be included in an addendum to the proposal and clearly labeled

"Exceptions". An addendum is only required if the offeror takes exception to any requirement in the solicitation. (The Addendum does not have a page limitation, but shall only include information relevant to exceptions taken to the solicitation requirements.) The Government will assume an offeror takes no exceptions to any solicitation requirement if the offeror does not submit an Addendum identifying exceptions. Offerors are advised that solicitation requirements are not necessarily negotiable and such exceptions may render an offeror's proposal unacceptable and ineligible for award.

**12. CLAUSES**

12.1. Clauses and provisions from the Federal Acquisition Regulation (FAR) and supplements thereto are incorporated in this document by reference and in full text. Those incorporated by reference have the same force and effect as if they were given in full text.

12.2. Clauses and provisions in this document may not appear in consecutive order.

**13. BRAND NAME REQUIREMENTS – N/A**

Section 00 21 16 - Instructions to Proposers

PROPOSAL SUBMISSION

PROPOSAL SUBMISSION

SECTION 00 21 16 SUBMISSION REQUIREMENTS AND INSTRUCTIONS

**1. PROPOSAL PREPARATION INSTRUCTIONS**

1.1. These instructions prescribe the format of proposals and describe the approach for the development and presentation of the proposal data. They are designed to ensure the submission of necessary information to provide for the understanding and comprehensive evaluation of proposals. Carefully review this section prior to commencing proposal preparation. All solicitation amendments must be acknowledged in accordance with Section 00100, FAR Provision 52.215-1, Instruction to Offerors – Competitive Acquisition.

1.2. Offerors are cautioned to strictly comply with all instructions within this solicitation to ensure submission of a complete proposal. Failure to furnish a complete proposal, at the time of proposal submission, may result in the proposal being unacceptable to the Government and eliminated from consideration for award.

**2. PROPOSAL CONTENT**

2.1. For this two-phase Design-Build solicitation, prospective offerors shall submit the following volumes in separate packages for each phase in accordance with instructions contained herein.

2.1.1. Phase 1 will consist of three (3) factors: (1) Team Experience, (2) Conceptual Technical Approach, and (3) Past Performance. Factors 1 through 3 are sorted in descending order of importance. Factor 1, Team Experience, is more important than Factor 2, Conceptual Technical Approach, which is more important than Factor 3, Past Performance. The Government may evaluate Phase 1 proposals as submitted, without conducting exchanges. Offerors should not assume that they will have an opportunity to clarify or correct anything in their proposal after submitting it in response to Phase 1. Up to five (5) of the most highly qualified Offerors who submit a proposal in Phase 1 may be invited to submit proposals for Phase 2, where they will submit a technical and price proposal. Offerors must receive minimum ratings of “Acceptable” for all Factors 1, 2, and 3 to move on to Phase 2 for further consideration.

2.1.2. Phase 2 will consist of two (2) factors: (1) Detailed Technical Approach, and (2) Price. Factor 1, Detailed Technical Approach, is approximately equal to Factor 2, Price.

**2.3. PROPOSAL SUBMISSION REQUIREMENTS**

2.3.1 The Offeror’s proposal shall be submitted electronically, as described below. The RFP will provide the Government address and receipt date for proposal submittal. The Offeror’s proposal shall not contain classified data. The use of hyperlinks in proposals is prohibited.

NOTE: The Offeror’s proposal must be received by the Government by the date/time specified in the solicitation.

2.3.2 Please send proposals to Contract Specialist Kristopher Kahle at [kristopher.kahle@us.af.mil](mailto:kristopher.kahle@us.af.mil), and Contract Officer Christopher Davalos at [christopher.davalos.1@us.af.mil](mailto:christopher.davalos.1@us.af.mil). NLT 9:00 a.m. (MDT) on 12 June 2023.

2.3.3 The Government will not be responsible for submissions delivered to any location or to anyone other than those designated to receive responses on its behalf. Offerors are responsible for ensuring that responses are submitted to reach the designated recipient. Offerors are responsible for allowing sufficient time for the response to be received in accordance with the instructions provided.

2.3.3.1 NOTE: Please note that the Bid Bond must be received by the Contract Specialist on or before the proposal due date and time.

## 2.4. PROPOSAL FORMAT

2.4.1. Purpose: These instructions prescribe the format of proposals, and describe the approach for the development and presentation of the proposed data. The proposal shall include all of the information requested in the specific instructions. Failure to include all information requested may adversely affect the evaluation.

2.4.2. A proposal that merely reiterates or promises to accomplish the requirements of the RFP will be considered unacceptable. A proposal that is orderly and sufficiently documented will be easy for the Government to understand and will enable the Government to perform a thorough and fair evaluation.

2.4.3. Offerors are cautioned to submit enough information to enable the evaluation committee to fully ascertain each offeror's capability to perform all of the requirements contemplated by this solicitation. All commitments made in the proposal may become a part of the resultant contract. The data submitted with each proposal should be complete and concise, but not overly elaborate. Excessive reliance on promotional brochures is discouraged.

2.4.4. File Format: Each volume shall be electronically formatted to print on standard 8.5 x 11 inch paper. Any pages that are changed (as a result of discussions or proposal revisions) shall be of a different color and shall have changed information clearly marked by a vertical line in the right margin of the page. The revised pages shall be dated. Each volume shall be clearly labeled with its title.

2.4.5. Each volume shall be single spaced. Each paragraph shall be separated by at least one blank line. A standard, 12-point minimum font size applies. Where page limits exist, a page is defined as one single side of a page. Double sided pages count as 2 pages. Unless otherwise stated, tabs, indexes and dividers do not count in the page count. Arial or Times New Roman fonts are required. Tables and illustrations may use a reduced font size no less than 8-point and may be landscape oriented.

2.4.6. The submission shall be clearly indexed and logically assembled. Each volume shall be clearly identified and shall begin at the top of a page. All pages of each volume shall be consecutively numbered and identified by the complete company name, date and solicitation number in the header and/or footer. MS Word (doc/docx) files shall use the following page setup parameters:

Margins – Top, Bottom, Left,  
Right – 1” Gutter – 0”  
From Edge – Header,  
Footer 0.5” Page Size,  
Width – 8.5”  
Page Size, Height – 11”

NOTE: 11X17 pages are acceptable for tables/graphic representations; however, each 11X17 page counts as two pages.

2.4.7. File Packaging: All of the proposal electronic files shall be submitted in PDF format, with the exception of the price proposal, and should be uploaded electronically to the PIEE website. CDs, DVD, Zip disks or USB drives are not permitted. \*\*Please note – Self extracting exe files are not acceptable.\*\*

2.4.8. Content Requirement: The Offeror shall confine submissions to essential matters sufficient to define the proposal in a concise manner and to permit a complete and accurate evaluation of each proposal. Offerors will be cautioned that “parroting” of the technical requirements of the scope with a statement of intent to perform does not reflect an understanding of the requirement or capability to perform. Offerors are responsible for including sufficient details to permit a complete and accurate evaluation of each proposal. Proprietary information should be clearly marked.

2.4.9. The offeror shall be held responsible for the validity of all information supplied in his/her proposal, including that provided by potential subcontractors. Should subsequent investigation disclose that the facts and conditions were not as stated, the proposal may be rejected.

2.5. PROPOSAL VOLUME CONTENTS: Each offeror’s proposal shall be submitted as set forth below and all information shall be confined to the appropriate part to facilitate independent evaluation. Proposals, which do not include the requested minimum information, may be eliminated from further consideration for award. The following page limits shall apply:

<b>Table 1 – Page Limit Requirements</b>		
<b>VOLUME TITLE</b>	<b>DIGITAL COPIES</b>	<b>PAGE LIMITS</b>
Phase 1, Volume I: Team Experience	1	11 (1 page for the cover sheet/matrix and 2 pages per project)
Phase 1, Volume II: Conceptual Technical Approach	1	10
Phase 1, Volume III: Past Performance	1	None
Phase 2, Volume I: Detailed Technical Approach	1	20
Phase 2, Volume II: Price, SF 1442, Amendments, Reps/Certs, JV Agreement	1	None

NOTE: All pages including, but not limited to, cover letters, Table of Contents pages, tables, illustrations, blank pages, dividers, and appendices will be counted in the page calculation. Pages that exceed the above noted page limitations will be removed, not read, and not evaluated. Agreements or letters of commitment will not be counted toward the page limit. Past Performance Questionnaires or CPARS reports will not be counted toward the page limit.

2.5.1. PHASE 1 VOLUME I, PRO FORMA DOCUMENTS

2.5.1.1. Provide an introductory page to include Cage Code, UEI Number, Tax Identification Number (TIN), points of contact, authorized negotiators, contact phone, and email addresses. Also, state that your business is a certified HUBZone small business.

2.5.1.2. Offer and Section 00010 – Complete in its entirety the “Offeror” portion of the Standard Form (SF) 1442. An official having the authority to contractually bind your company must sign the SF 1442 in accordance with FAR 4.102. One copy of the SF 1442 is required to have an original signature.

2.5.1.3. Representations and Certifications- Section 00600- insert the required certifications and representations and return only those shown in section 00600. Return the entire Section 00600 with your proposal. All other required representations and certifications are to be completed on line in the System for Award Management (SAM) at [www.sam.gov](http://www.sam.gov).

2.5.1.4. All potential offerors are required to register in the System for Award Management. See FAR Provision 52.204-7 System for Award Management.

2.5.1.5. Joint Venture Requirements - Parties wishing to propose as a joint venture must submit, with the Pro Forma documents, an executed copy of the joint venture agreement. The joint venture agreement shall be executed in accordance with FAR 4.102(d). Each joint venture partner shall submit evidence satisfactory to the

Contracting Officer that its Board of Directors has approved its participation in the joint venture or by an instrument of similarly binding character in the case of an unincorporated entity. Offerors are reminded that to obtain an award the awardee, to include a joint venture, must be registered in the System for Award Management (SAM) database. Applicable to set-aside solicitations: Joint Ventures must meet applicable size standards (See FAR Subpart 19.1). Submit with the proposal any size determination for the Joint Venture entity received from the Small Business Administration. A Joint Venture where-in one party is not a small business may be referred to the Small Business Administration (IAW FAR 19.302 (b)) to determine eligibility. All questions regarding Joint Ventures must be directed to the Small Business Administration (SBA) and not the Contracting Officer.

## 2.5.2. PHASE 1 VOLUME II, OFFEROR TECHNICAL CAPABILITY AND PAST PERFORMANCE PROPOSAL

2.5.2.1. Phase 1 Volume II is comprised of three (3) subfactors: Subfactor 1, Team Experience; Subfactor 2, Conceptual Technical Approach; and Subfactor 3, Past Performance.

2.5.2.1.1. Government acknowledges that the technical proposal will involve discussion of some of the same projects/contracts discussed in the Past Performance volume. While Past Performance examines how an offeror performed in the past, so as to determine the probability of success on future projects, this subfactor examines the offeror's experience with complex multidiscipline project management and execution and how the offeror demonstrates an understanding of the contract's requirements taking this experience into consideration.

**2.5.2.2. Phase 1 Volume II Subfactor 1: Team Experience.** The Team Experience Proposal is limited to 11 single pages, (1 page for the cover sheet/matrix and 2 pages per project). Pages in excess of the limit will not be evaluated.

2.5.2.2.1 The offeror shall provide no more than five (5) projects that have been performed by the offeror and for which the offeror was the prime contractor performing and/or managing the work. The projects shall demonstrate the offeror's experience in performance of work similar to the work required by this solicitation. If more than five (5) projects are submitted, only the first five (5) projects as identified in the proposal will be evaluated.

2.5.2.2.2 All submitted projects shall have been completed no earlier than six (6) years before the posting date of this solicitation or, if active, shall be in progress for at least one (1) year (with at least 50% construction progress completed). Examples of projects shall not exceed two (2) pages each.

2.5.2.2.3 A project is defined as a single, stand-alone contract and/or a single task order issued under an existing IDIQ contract(s) unless the project included multiple phases and was issued under more than one contractual order. It shall be noted that an IDIQ contract is not a project. Do not combine multiple task orders unrelated to a stand- alone project to create a single project example. Combining multiple task orders under an IDIQ to create a single project will not be compliant with the solicitation criteria, and it will not be evaluated or considered. The contract number or IDIQ number and individual task order number associated with the project in the title must be included for each of the projects. If the project is not 100% complete, note the current percentage and estimated date when the project will be completed for each contract and/or task order. Firms shall only submit projects as evidence of experience if those projects are at a minimum 50% complete. Include the percentage of work self-performed by the prime for each contract and/or task order. If proposing as a JV, ascribe the percentage of work self-performed by each Joint Venture member.

2.5.2.2.3 A matrix listing all members of the proposed team should be included for this factor that clearly identifies the submitted experience projects that each member worked on. If a team member's role is changed, please include that information. A sample matrix illustrating the format is as follows (note, these positions are for illustrative purposes only):

Labor Category	Project 1	Project 2	Project 3	Project 4	Project 5	Remarks
Project Manager	X			X	X	On Project 5 was an Assistant Project Manager
Security Professional	X	X	X			Provided by Joint Venture Partner "Design Co."
Other Professional (State Position)		X		X	X	Provided by Joint Venture Partner "Design Co."
Civil Engineer	X		X	X		
Superintendent		X	X	X	X	
General Foreman						New Hire

2.5.2.2.4 If any significant portion of the work provided is subcontracted, clearly identify that work as such and provide the required experience of that subcontractor as it relates to work the subcontractor is to perform for this solicitation. If the offeror is a joint venture, each firm shall provide information demonstrating experience relevant to their role on this project.

**2.5.2.3. Phase 1 Volume II Subfactor 2: Conceptual Technical Approach.** The technical approach proposal is limited to 10 pages total. The technical approach is obtained for the purposes of evaluating the offeror's proposed technical approach for accomplishing the work described in the solicitation. The offeror's proposed approach will be evaluated to determine the extent to which the offeror addresses all elements of the design and construction for completeness and reasonableness. To be considered acceptable, the offeror must describe their resources, demonstrate an understanding of the specific requirements of the solicitation, and provide a reasonable method for accomplishing these requirements within the performance period required.

**2.5.2.4. Phase 1 Volume II Subfactor 3: Past Performance.** There is no page limit on the Past Performance proposal. Offerors shall submit past performance information for each project submitted for Factor 1, Team Experience. Offerors shall provide for each submitted project a copy of any interim and final performance evaluations for the project from the Contractor Performance Assessment Reporting System (CPARS) -OR- a Past Performance Questionnaire (PPQ), Attachment 4, to obtain references from past and present clients. Inform references that completed Performance Questionnaire should be returned to Contract Specialist Kristopher Kahle at [kristopher.kahle@us.af.mil](mailto:kristopher.kahle@us.af.mil) and Contracting Officer Christopher Davalos at [christopher.davalos.1@us.af.mil](mailto:christopher.davalos.1@us.af.mil) to arrive no later than the closing date for receipt of proposals. Offeror must not review the Past Performance Questionnaire prior to submission. They are to be submitted by the client/evaluator directly to the Contracting Officer. Offeror's should follow-up and encourage references to get the questionnaires to the Contracting Officer in a timely manner.

2.5.2.4.1 Past/Present Performance, which includes current on-going (present) performance that is complete to 70% or greater will be evaluated using the evaluation criteria set forth in Section 00120 of the solicitation. The Government may contact these references and may consider this information as well as information obtained from any other sources when evaluating the offeror's past/present performance.

2.5.2.4.2. Offerors should consider the currency and relevancy of the past/present performance information to be considered, the performance must have been completed during the past five (5) years. The period begins five (5) years prior to the solicitation release date and includes current performance. Performance that is more current may have greater impact than older performance.

2.5.2.4.3. In determining relevancy to the solicitation requirement, offerors should consider the similarity of construction methods employed, size, scope, cost magnitude, location, client type (e.g. federal government) and complexity of work performed to those required for the proposed effort. Location should also be considered.

2.5.2.4.4. Offerors are encouraged to include with their proposal information any problems encountered on the identified contracts and the offeror's correction actions.

2.5.2.4.5. Offerors lacking relevant present/past performance experience may submit information regarding predecessor companies, key personnel who have relevant experience or subcontractors that will perform major or critical aspects of the requirement if such information is relevant to this acquisition. Such information shall, as a minimum, include:

Name(s) of Predecessor Company/Subcontractor and/or Key Personnel Complete Address Telephone, Fax Number and email address Brief synopsis of the experience- A resume may be submitted for "Key Personnel" Describe relevancy to this project

2.5.2.4.6. Provide three (3) references, for each Predecessor Company, Subcontractor or Key Personnel. Clearly identify the contractor/individual for whom the reference information concerns.

2.5.2.4.7. Past Performance References – **REQUIRED** – A “Final” Performance Evaluation (Construction) (also referred to as CCASS Evaluation) issued for a project may be included in lieu of sending out reference package for the project.

2.5.2.4.8. In assessing past performance, the Government may also consider the past/present performance of the offeror’s key personnel, Project Manager, Quality Control Manager and Site Superintendent, as it relates to previous projects. **In the event the intended key personnel for this solicitation’s project do not have demonstrated past performance in the project(s), the Government reserves to obtain reference information additional information is required.**

2.5.2.4.9. **Each key person without prior past performance history demonstrated on the submitted Exhibit A shall provide a summary of experience or a resume.** In the event the intended person is not part of the offeror’s organization at the time the proposal is submitted then a Letter of Intent, is also required or the information will not be considered. The Government may seek additional references and reserves the right to use the information provided to obtain additional references.

2.5.2.4.10. Offerors are advised that the Government may use all data provided by the offeror in this volume and data obtained from any other sources, to include, but not limited to, data independently obtained from other Government or commercial sources; from any other sources available to the Government, to include, but not limited to, the Federal Awardee Performance and Integrity Information System (FAPIS), Electronic Subcontract Reporting System (eSRS), or other databases; interviews with Program/Project Managers, Contracting Officers or rely upon personal business experience with the offeror. The Government reserves the rights to obtain and evaluate past performance information from any source it deems appropriate. While the Government may elect to consider data obtained from other sources, the burden of providing current accurate and complete past/present performance information rests with the offeror.

### **2.5.3. Phase 2, Factor 1, VOLUME I, Detailed Technical Approach**

2.5.3.1. Phase 2, Factor 1, VOLUME I, Detailed Technical Approach proposal is limited to 20 pages total. This factor evaluates the offeror’s proposed technical approach for accomplishing the work described in the solicitation. The detailed technical approach shall include the following:

2.5.3.1.1 An explanation of how it meets the Scope of Work requirements.

2.5.3.1.2 A list of proposed equipment package vendors for major equipment (e.g. fencing, anti-ramping cables, temporary and security measures, etc.)

2.5.3.1.3 A detailed schedule.

2.5.3.1.4 Information on the proposed commissioning agent's experience with anti-ramming fencing.

**2.5.4. Phase 2, Factor, VOLUME II, PRICE AND PRO FORMA DOCUMENTS**

2.5.1.1. Offerors shall provide all price/cost information necessary to provide a meaningful basis for Government's analysis and evaluation of price/cost for the project set forth in Section 00120 of this solicitation. The Government is not, and does not intend on, requesting certified cost or pricing data. See bid schedule table for details.

2.5.1.2. Provide an introductory page to include Cage Code, UEI Number, Tax Identification Number (TIN), points of contact, authorized negotiators, contact phone, and email addresses. Also, include your business is a Certified HUBZone small business.

2.5.1.3. Provide a table of contents and should number all pages consecutively. Volume II should be submitted in a separate file from Volume I. Volume II should be broken down into sections as defined below:

2.5.1.3.1 Section 1: The name(s) and title(s) of the person(s) authorized to negotiate and sign a contract. Also, provide a Certificate of Corporate Authority or other applicable documentation of authorized signature(s) for each authorized individual.

2.5.1.3.2 Section 2: Offer and Section 00010 – Complete in its entirety the “Offeror” portion of the Standard Form (SF) 1442. An official having the authority to contractually bind your company must sign the SF 1442 in accordance with FAR 4.102. One copy of the SF 1442 is required to have an original signature.

2.5.1.3.3 Section 3: Acknowledgement of all amendments to the solicitation in accordance with the instruction on the Standard Form 30 (amendment form).

2.5.1.3.4 Section 4: The completed Section 00600 of the solicitation (i.e., Representations, Certifications, and Other Statements of Offerors). Insert the required certifications and representations and return only those shown in section 00600. Return the entire Section 00600 with your proposal. All other required representations and certifications are to be completed on line in the System for Award Management (SAM) at [www.sam.gov](http://www.sam.gov).

2.5.1.3.5 Section 5: The cost/price proposals in Microsoft Excel (.xlsx) format in accordance with the instructions for Federal Acquisition Regulation (FAR) Table 15-2, located at FAR 15.408 ([https://www.acquisition.gov/far/part-15#FAR\\_15\\_408](https://www.acquisition.gov/far/part-15#FAR_15_408)). All cost and pricing data supplied by Offerors will represent data other than certified cost or pricing data as defined by FAR 2.101.

2.5.1.3.5.1 Offerors shall also clearly separate their costs associated with the design work from their costs associated with the construction activities.

2.5.1.3.6 Section 6: Bid Guarantees in accordance with FAR 52.228-1 must be submitted no later than the date and time for proposal submission.

Section 00 22 16 - Supplementary Instructions to Proposers

CLAUSES INCORPORATED BY REFERENCE

52.232-10	Payments under Fixed-Price Architect-Engineer Contracts	APR 2010
52.232-26	Prompt Payment for Fixed-Price Architect-Engineer Contracts	JAN 2017
52.236-23	Responsibility of the Architect-Engineer Contractor	APR 1984
52.236-24	Work Oversight in Architect-Engineer Contracts	APR 1984
52.236-25	Requirements for Registration of Designers	JUN 2003
52.243-1 Alt I	Changes--Fixed Price (Aug 1987) - Alternate I	APR 1984
52.244-4	Subcontractors and Outside Associates and Consultants (Architect-Engineer Services)	AUG 1998
52.249-7	Termination (Fixed-Price Architect-Engineer)	APR 1984
252.219-7003	Small Business Subcontracting Plan (DOD Contracts)	DEC 2019
252.227-7022	Government Rights (Unlimited)	MAR 1979

CLAUSES INCORPORATED BY FULL TEXT

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) below. 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) below, 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 \$

(End of clause)

EVALUATION CRITERIA

EVALUATION CRITERIA

SECTION 00 22 16 PROPOSAL EVALUATION AND BASIS FOR AWARD

1. GENERAL INFORMATION

1.1. This solicitation is for a Firm Fixed Price Contract. The Government intends to award a single contract to a Certified HubZone Small Business Offeror deemed responsible in accordance with the Federal Acquisition Regulation (FAR), whose proposal conforms to all the RFP's requirements and is judged to represent the Best Value to the Government in accordance with the evaluation scheme set out in this solicitation. The award of this Design-Build contract will be made using a two-phase best value tradeoff process in accordance with FAR Part 36.3 and Part 15.101, based on the best overall (i.e. best value) proposal that is determined to be the most beneficial to the Government, with appropriate consideration given to the evaluation factors in Phase 1 and Phase 2.

1.1.1 Phase 1 will consist of three (3) factors: (1) Team Experience, (2) Conceptual Technical Approach, and (3) Past Performance. Factors 1 through 3 are sorted in descending order of importance. Factor 1, Team Experience, is more important than Factor 2, Conceptual Technical Approach, which is more important than Factor 3, Past Performance. The Government may evaluate Phase 1 proposals as submitted, without conducting exchanges. Offerors should not assume that they will have an opportunity to clarify or correct anything in their proposal after submitting it in response to Phase 1. Up to five (5) of the most highly qualified Offerors who submit a proposal in Phase 1 may be invited to submit proposals for Phase 2, where they will submit a technical and price proposal. Offerors must receive minimum ratings of "Acceptable" for all Factors 1, 2, and 3 to move on to Phase 2 for further consideration.

1.1.2 Phase 2 will consist of two (2) factors: (1) Detailed Technical Approach, and (2) Price. Factor 1, Detailed Technical Approach, is approximately equal to Factor 2, Price.

1.1.3 Final selection will be based on the best overall proposal in Phase 2 that is determined to be the best value to the Government, with appropriate consideration given to the technical and price proposals. To receive consideration for award, a rating of no less than "Acceptable" on the technical factor must be achieved. Offerors are cautioned that award may not necessarily be made to the lowest priced offeror.

1.2. To arrive at a Best Value decision this acquisition will utilize the FAR Part 15.101-1 tradeoff process unless the lowest priced offeror (with a price deemed reasonable and realistic) is also deemed to be the highest rated in terms of non-price evaluation criteria. If the lowest priced offeror is also the highest rated in terms of non-Price Factors, no tradeoff is necessary. Further, there is no tradeoff necessary between any offer that is lower priced and higher rated in terms of non-Price Factors with respect to any other offers that are higher priced and lower rated for the non-Price Factors. While the Government and the Source Selection Authority will strive for maximum objectivity, the evaluation process, by its nature, is subjective and therefore, professional judgment is implicit throughout the entire evaluation process.

1.3. The source selection process will be conducted in accordance with FAR Subpart 15.3, Source Selection procedures. Offers will be evaluated using the criteria listed in "Evaluation Factors for Award." Noncompliance with the RFP requirements may raise serious questions regarding an offeror's technical ability, past performance and/or pricing and may be grounds to eliminate the proposal from consideration for contract award. Failure to include all information requested may adversely affect the evaluation. A proposal that merely reiterates or promises to accomplish the requirements of the RFP will be considered unacceptable. A proposal that is orderly and sufficiently documented will be easy for the Government to understand and will enable the Government to perform a thorough and fair evaluation.

1.4. The Contracting Officer will begin the evaluation process by conducting a proposal compliance review for all timely-received proposals for determination of basic proposal adequacy prior to providing the proposals to the evaluators. Failure to provide a complete proposal may result in the proposal being removed from further consideration for award. Failure to address any factor Technical, Past Performance and Price or any technical subfactor shall be grounds for elimination and consideration for award.

1.5. Offerors must ensure that no pricing information is displayed in Volume 2, Technical and Past Performance Proposal.

1.6. Although the assessment of Past Performance as a specific evaluation factor is separate and distinct from the Determination of Responsibility required by FAR Part 9, Past Performance information obtained herein will be used

during the Government's responsibility determination. The Government also reserves the right to obtain additional information solely for the purpose of making a responsibility determination from all offerors after receipt of proposals. Requests for responsibility information do not constitute discussions.

1.7 The Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). The Government reserves the right to conduct discussions if the Contracting Officer, in his/her sole discretion, later determines them to be necessary or appropriate. Further, the Government reserves the right to create or not to create a competitive range.

1.8. ENFORCEABILITY OF PROPOSAL: The proposal must set forth full, accurate and complete information as required by this solicitation. By submission of the offer, the Offeror agrees that all items proposed (if applicable e.g., key personnel, subcontractors, etc.) will be utilized for the duration of the contract and any substitutions shall require prior Contracting Officer's approval.

## 2. EVALUATION FACTORS FOR AWARD

2.1. During the evaluation of each proposal, the Government will assign a rating for Factors 1, 2 and 3 in Phase 1, and Factor 1 in Phase 2. Factor 2 in Phase 2 (Price) will be evaluated for price reasonableness. The firm that represents the best value to the Government will be selected for award in accordance with FAR 15.1 Source Selection Processes and Techniques.

2.1.1. The following factors will be used to evaluate each proposal:

- Phase 1, Factor 1 – Team Experience
- Phase 1, Factor 2 – Conceptual Technical Approach
- Phase 1, Factor 3 – Past Performance
- Phase 2, Factor 1 – Detailed Technical Approach
- Phase 2, Factor 2 – Price

2.1.2 Evaluation of the offeror's proposal shall address how the factors Team Experience, Conceptual Technical Approach, and Detailed Technical Approach each apply to the Statement of Work and preliminary drawings. An offer which fails to provide information in any of the specified areas may be deemed incomplete and eliminated from the competition and ineligible for further consideration.

2.1.2. Past Performance: Each offeror's past performance will be reviewed to determine relevancy and confidence assessment.

2.1.3. Cost/Price. The resulting award will be a firm fixed price contract type. Price Reasonableness will be utilized in the evaluation of the Firm-Fixed price effort.

2.1.4. The overarching evaluation approach for all factors is as follows:

a. Adequacy of Response. The proposal will be evaluated to determine whether the offeror's methods and approach have adequately and completely considered, defined, and satisfied the requirements specified in the

RFP. The proposal will be evaluated to determine the extent to which each requirement has been addressed in the proposal in accordance with the proposal submission section of the RFP.

b. Feasibility of Approach. The proposal will be evaluated to determine the extent to which proposed approach is workable and the end results achievable. The proposal will be evaluated to determine the extent to which successful performance is contingent upon proven devices and techniques. The proposal will be evaluated to determine the extent to which the offeror is expected to be able to successfully complete the proposed task and technical requirements within the required schedule.

## 2.2. TECHNICAL PROPOSALS: TECHNICAL EVALUATION FACTOR RATINGS:

2.2.1. The technical rating reflects the degree to which the proposed approach meets or does not meet the minimum performance or capability requirements through an assessment of the strengths, weaknesses,

deficiencies, and risks of a proposal. This is a combined rating that includes risk associated with the technical approach in a single rating.

2.2.1.1 Technical Ratings will be applied to the following factors in each phase

Phase 1:

Factor 1 – Team Experience

Factor 2 – Conceptual Technical Approach

Phase 2:

Factor 1 – Detailed Technical Approach

2.2.1.2 Ratings will be assigned as an overall factor level rating. Based on evaluation results for Phase 1, the Government will assign a technical rating for Team Experience and Conceptual Technical Approach as well as the overall technical proposal for Phase 1. The factors will be rated in descending order of importance with Team Experience being more important than Conceptual Technical Approach. During Phase 2, the Government will assign a technical rating for Detailed Technical Approach. An offer which fails to provide information in any of the specified areas during Phase 1 or Phase 2 may be deemed incomplete, and eliminated from the competition and ineligible for further consideration for award.

Color Rating	Adjectival Rating	Description
Blue	Outstanding	Proposal demonstrates an exceptional approach and understanding of the requirements and contains multiple strengths and/or at least one significant strength, and risk of unsuccessful performance is low.
Purple	Good	Proposal demonstrates a thorough approach and understanding of the requirements and contains at least one strength or significant strength, and risk of unsuccessful performance is low to moderate.
Green	Acceptable	Proposal meets requirements and demonstrates an adequate approach and understanding of the requirements, and risk of unsuccessful performance is no worse than moderate.
Yellow	Marginal	Proposal has not demonstrated an adequate approach and understanding of the requirements, and/or risk of unsuccessful performance is high.
Red	Unacceptable	Proposal does not meet requirements of the solicitation and, thus, contains one or more deficiencies and is unawardable, and/or risk of performance is unacceptably high.

**2.2.3. Phase 1 Factor 1: Team Experience.**

2.2.3.1. Using the past and current projects provided and proposed team members listed in the matrix, the Government will evaluate how the Offerors demonstrate prior successful experience working together with their proposed team members on projects. Projects that are recent and relevant may receive higher consideration for this factor.

2.2.3.2 Relevancy will be determined by the projects that demonstrate successful completion of projects similar in size, scope, complexity, and price to the solicitation project and by the roles listed and work performed by each proposed team member on projects demonstrating that team member’s experience which shall be consistent with the role proposed for that team member under this procurement.

2.2.3.3 The offeror will be evaluated on whether each of its team members demonstrate experience in projects that are recent and relevant to the project required in the solicitation.

**2.2.4 Phase 1 Factor 2, Conceptual Technical Approach**

2.2.4.1 The combined technical/risk ratings focus on the strengths, deficiencies, weakness, risks, and uncertainties of the offeror's proposal. The rating depicts how well the offeror's proposal meets the technical factor requirements. The standard is met if the offeror's proposal is sound and reflects an understanding of the technical requirements.

2.2.4.2 Proposals that do not demonstrate a clear understanding of the technical requirements will be considered to not meet solicitation requirements.

2.2.4.3 Additional consideration may be given for the submissions which include a proposed project schedule that clearly demonstrates an understanding of the phasing of the design and construction activities which will be required under this contract.

## 2.2.5 Phase 2 Factor 1, Detailed Technical Approach

2.2.5.1 The combined technical/risk ratings focus on the strengths, deficiencies, weakness, risks, and uncertainties of the offeror's proposal. The rating depicts how well the offeror's proposal meets the technical factor requirements. The standard is met if the offeror's proposal is sound and reflects an understanding of the technical requirements. Proposals that do not demonstrate a clear understanding of the technical requirements will be considered to not meet solicitation requirements.

2.2.5.2 The Government will evaluate the offeror's understanding of the contract requirements, Statement of Work and preliminary drawings, and determine to what degree their technical and administrative capabilities, proposed organization and management plan are adequate to meet contract requirements. To be considered adequate the Detailed Technical Approach proposal will address the full spectrum of activities involved in the management of a resulting contract in a manner that gives the Government confidence that the offeror understands all the requirements. An adequate proposal will include the information necessary to give the Government confidence of the offeror's ability to successfully perform complete project management of the scope requirements.

2.2.5.3 The Government will evaluate the offeror's list of proposed equipment package and vendors for major equipment (e.g., fencing, anti-ramming cables, temporary and security measures, etc.) to determine their comprehensive understanding of the components involved in a complete secure perimeter fencing.

2.2.5.4 The offeror shall provide a schedule using a Gantt chart that shows a complete project schedule considering a Notice to Proceed date of 01 September 2023. The schedule should demonstrate an offeror's understanding of the requirements. The Architecture-Engineering and Construction Schedule is an integrated and networked multi-layered schedule of program/project tasks. It identifies project events, accomplishment, and criteria and the expected dates of each. These dates are based on the calendar dates provided as the starting point and the logical flow of dates provided by calculating the addition of duration of all tasks using typical schedule networking tools. Each major task will be directly traceable to the requirements of the project. The NTP date for the schedule is for the purpose of evaluation only.

2.2.5.5 The offeror shall provide information on the proposed commissioning agent's experience with perimeter fencing projects that will give the Government confidence of the offeror's ability to successfully perform complete project management of the scope requirements.

## 2.3 PAST PERFORMANCE

2.3.1. **Phase 1 Factor 3, Past Performance.** The Government will evaluate the offeror's record of past and current performance to ascertain the probability of successfully performing the required efforts of the Plans and Specifications. The Past/Present Performance evaluation will consist of a "relevancy" rating and a "confidence" rating. Although there are subfactors listed below, the "confidence" ratings will be at the factor level only. Stated differently, the subfactors will be considered, but they will not receive individual confidence ratings. The Past/Present Performance evaluation will consider such things as an offeror's business practices, customer relationship, ability to successfully perform as proposed, and other considerations as described in Past/Present Performance Sub-factors, elements and other considerations. Past/Present Performance includes current/on-going (present) performance complete to 70% percent. Projects currently in progress for the National Guard will also be considered regardless of percentage complete. In assessing performance confidence, the evaluator may: (1) evaluate present and past performance information through the use of questionnaires completed by the offeror's references;

(2) use data independently obtained from other Government or commercial sources; from any other sources available to the Government, to include, but not limited to, the Federal Awardee Performance and Integrity Information System (FAPIS), Electronic Subcontract Reporting System (eSRS), or other databases; (3) interview Program/Project Managers, Contracting Officers or rely upon personal business experience with the offeror; (4) use the information provided in the Offeror's Past Performance Relevancy Questionnaire; and (5) consider any information the offeror submits which explains any problems encountered on the identified contract and the offeror's corrective actions. The Government reserves the rights to obtain and evaluate past performance information from any source it deems appropriate.

2.3.2. The evaluation may take into account Past/Present Performance information regarding predecessor companies, key personnel who have relevant experience or subcontractors that will perform major or critical aspects of the requirement when such information is relevant to this acquisition. The evaluation will also consider information provided relative to corrective actions taken to resolve problems on past or existing contracts.

2.3.3. An offeror with no relevant Past/Present Performance may receive a rating based on the evaluation of its predecessor companies, key personnel, and/or subcontractors provided the offeror clearly states in the proposal that the information provided about predecessor companies, key personnel, and/or subcontractors is for the purposes of enhancing the offeror's past performance proposal. These ratings may not have the same weight as the ratings of the proposing company. The weight that will be afforded for this type of past performance is within the sole discretion of the Government. If such information is not applicable (i.e., the offeror does not have a predecessor company, key personnel or subcontractors with relevant experience), the offeror shall be evaluated as "Unknown Confidence" (Neutral).

2.3.4. In accordance with FAR 15.306(a)(2), if award will be made without conducting discussions, offerors may be given the opportunity to clarify certain aspects of their proposals, e.g., the relevance of an offeror's past/present performance information and adverse past/present performance information to which the offeror has not previously had an opportunity to respond or to resolve minor clerical errors.

2.4. Current, Trends and Relevancy: Evaluators will consider the performance information for currency, relevancy as well as trends in the performance as explained further below.

3.3.1. "Current" means performance occurring within the last five (5) years for the period beginning five years prior to the solicitation release date. Within this period, performance occurring later in the period may have greater significance than work occurring earlier in the period.

3.3.2. "Trends" in performance will be considered and may include the following but may not be limited to: more current performance having greater weight than older performance; patterns or trends in performance issues as relating to, but not limited to, types of projects, work, personnel and similar elements; and whether performance shows a pattern of improvement or decline over time.

3.3.3. The Government may also consider similarity of the client type (e.g. federal government) and/or the projects sustainability requirements. The Government will consider United States Green Building Council (USGBC) LEED® certification achievements. The location at which work was performed to the location(s) at which work will be performed will also be considered. **Relevancy will affect an offeror's overall Past Performance rating.**

3.3.3.1. In assessing "relevancy" of an offeror's previous contracts the Government may evaluate an offeror's past performance for similarity of the construction methods, size, project scope, cost magnitude and complexity of work performed to those required for the proposed effort. The Government may also consider similarity of the client type (e.g. federal government) and/or the projects sustainability requirements. ANG projects will consider United States Green Building Council (USGBC) LEED®. The location at which work was performed may also be considered. Relevancy weight will affect offeror's overall Past Performance Confidence rating. The more relevant the project is weighted the greater confidence there will be in the past performance assessment as a predictor of future performance.

3.3.4. The following apply to weighting relevancy considering all the elements listed above;

3.3.4.1. VERY RELEVANT - Present/past performance effort involved essentially the same scope and magnitude of effort and complexities this solicitation requires.

3.3.4.2. RELEVANT - Present/past performance effort involved similar scope and magnitude of effort and complexities this solicitation requires.

3.3.4.3. SOMEWHAT RELEVANT- Present/past performance effort involved some of the scope and magnitude of effort and complexities this solicitation requires.

3.3.4.4. NOT RELEVANT - Present/past performance effort involved little or none of the scope and magnitude of effort and complexities this solicitation requires.

3.3.4.5. Offerors who otherwise have satisfactory performance on previous construction projects may be rated Neutral if those projects are not considered relevant to the proposed acquisition and relevancy cannot be obtained through the evaluation of key personnel and/or subcontractors. Projects that are not current will not be considered in the evaluation.

3.4. Past Performance Sub-factors. There are six (6) sub-factors. The six (6) sub-factors are of equal importance. An overall evaluation for Past Performance will be at the factor level.

1. Quality Control
2. Timely Performance
3. Management Effectiveness
4. Compliance with Safety Standards
5. Compliance with Federal laws and regulations
6. Compliance with utilization of small business concerns requirements (applicable to all offerors); including small business concerns. Reference FAR 19.702.

3.5. The elements that may be considered under each subfactor are described below:

3.5.1. **Quality Control (QC): Evaluators may consider such things as:** Quality of Workmanship; Adequacy of the Contractor QC; Identification/correction of deficient work in a timely manner; Suggested solutions and displayed initiative to implement solutions; Adequacy of Materials; Use of specified materials; Adequacy of Submittals and Adequacy of "As-Builts".

3.5.2. **Timely Performance: Evaluators may consider such things as:** Met established progress schedule; Timely submission of updated and revised progress schedules; Resolved delays in an expeditious manner; Identification/correction of deficient work in a timely manner; Provided submittals in a timely manner; Completed all contract work prior to requesting final inspection; Timely completion of punch-list items; Left no major discrepancies; Timely submission of close out documents, i.e., "as built", "red lines"; Contractor provided timely and satisfactory response to warranty issues after project completion.

3.5.3. **Compliance with Safety Standards: Evaluators may consider such things as:** Adequacy of implementation of safety plan; Acceptable safety history; and the Experience Modification Rate (EMR) provided on Exhibit A, Part 2, paragraph 2E. An EMR over 1.0 may receive less favorable consideration.

3.5.4. **Management Effectiveness: Evaluators may consider such things as:**

3.5.4.1. **General Business Practices, including, but not limited to:** Contractor provided experienced managers, and supervisors with the ability needed to meet contract requirements; Hired experienced subcontractors; Paid subcontractors/suppliers in a timely manner; The contractor cooperated to resolve problems, attending meetings (as applicable) and maintained communication to assure satisfactory resolution; Overall customer satisfaction and willingness to foster a spirit of partnership with owner. This is a critical element in this subfactor.

3.5.4.2. **Pricing, including, but not limited to:** The contractor submitted proposals that accurately represented the work required; The contractor's supporting price/cost information for modifications were accurate, complete and reasonable (not over inflated or under estimated); Provided well-substantiated pricing data for change orders;

3.5.4.3. **Site Management/Superintendent, including, but not limited to:** Site manager ensured compliance to contract requirements & safety regulations; Site manager acted promptly to resolve problems and ensure work quality; Site manager had sufficient authority to make decisions or take actions during project performance; Site manager consistently present on site when work was performed.

3.5.4.4. **Sustainability requirement compliance including but not limited to:** Extent to which the contract's sustainability requirements were met. Achievement of USGBC recognition at certified or silver level on completed projects is considered a benefit to the Government and may receive additional consideration. Achievement above the silver level may receive additional consideration.

3.5.5. **Compliance with Federal laws and regulations: Evaluators may consider such things as:** Compliance with labor laws and regulations with specific attention to Construction Wage Rate Requirements including, but not limited to: Submitted payrolls in a timely manner; Payrolls were complete and correct; Compliance with Drug Free Work Place requirements; Compliance with Executive Order 16393—Planning for Federal Sustainability in the Next Decade.

3.5.6. **Compliance with utilization of small business concerns requirements** (applicable to all offerors); including small business concerns. Evaluators will consider if the firm was in compliance with FAR 52.219-8 Utilization of Small Business Concerns.

3.6. **Other Past Performance Considerations:** Evaluators may also consider the following issues when evaluating an offeror's Past Performance. These issues may help provide additional guidance in deciding a descriptive performance confidence assessment (e.g., "Substantial Confidence" or "Satisfactory Confidence") for a specific offeror if there is a question as to which adjective is most appropriate.

3.7. The following ratings and related definitions will be used to define the performance confidence assessment. Based on the evaluation results, the evaluators will assign the Past Performance factor one of the ratings as defined below.

3.7.1. **SUBSTANTIAL CONFIDENCE:** Based on the offeror's recent/relevant performance record, the Government has a high expectation that the offeror will successfully perform the required effort.

3.7.2. **SATISFACTORY CONFIDENCE:** Based on the offeror's recent/relevant performance record, the Government has a reasonable expectation that the offeror will successfully perform the required effort.

3.7.3 **NEUTRAL:** No recent/relevant performance record is available or the offeror's performance record is so sparse that no meaningful confidence assessment rating can be reasonably assigned. The offeror may not be evaluated favorably or unfavorably on the factor of past performance.

3.7.4. **LIMITED CONFIDENCE:** Based on the offeror's recent/relevant performance record, the Government has a low expectation that the offeror will successfully perform the required effort.

3.7.5. **NO CONFIDENCE:** Based on the offeror's recent/relevant performance record, the Government has no expectation that the offeror will be able to successfully perform the required effort.

#### 4. **PRICE EVALUATION**

4.1. This contract is a firm fixed price contract. Price is not rated. The purpose of the price/cost evaluation is to determine whether an offeror's proposed prices/costs for the project are determined to be fair and reasonable in comparison to the competition, the current market conditions and/or recent prices for the same or similar requirements. Reasonableness of an offeror's proposal is evaluated through cost or price analysis techniques as described in FAR Subpart 15.305(a)(1) and (4).

4.2. The RFP requires firm-fixed prices for the individual contract line items. A price reasonableness approach will be utilized by the Government to determine that the proposed prices offered are fair and reasonable and that a "buy-in" or unbalanced pricing between CLINS or Options is not occurring.

4.3 The Government will examine price proposals for artificially low unit prices. Offers found to be unreasonably high, unrealistically low (an indication of a "buy-in"), or unbalanced, may be considered unacceptable and may be rejected on that basis.

4.4. The Government reserves the right to obtain additional information concerning the price (cost) as necessary to obtain a better understanding of the price proposed. No proposal revisions will be allowed under these conditions. Request for such information is for clarification purposes only. This does not constitute and shall not be construed as discussions. If a minor clerical error has occurred, in which case the offeror may be given an opportunity to correct the minor error within the constraints of the "clarifications" process or the Contracting Officer in his/her sole discretion later determines discussions to be necessary or appropriate.

4.5. In the event the Government does not award a contract pursuant to this solicitation within 90 calendar days after receipt of proposals and award will be made without discussions, the following will apply:

4.5.1 The Government reserves the right to allow offerors to make an adjustment in their price proposals to accommodate cost changes caused by fluctuating construction material market conditions. The Contracting Officer will notify Offerors, normally by electronic mail (email) of a common closing date for receipt of the adjusted price proposals. No additional proposal revisions will be allowed under these conditions. This does not constitute and shall not be construed as discussions. If a minor clerical error has occurred, in which case the offeror may be given an opportunity to correct the minor error within the constraints of the "clarifications" process or the Contracting Officer in his/her sole discretion later determines discussions to be necessary or appropriate.

4.6. In the event the current prevailing Wage Determination is changed by the Department of Labor after the closing date of this solicitation, the updated Wage Determination will be incorporated by amendment and issued to all offerors that have not been eliminated from the competition. If applicable, these offerors/contractors will be given a reasonable opportunity to provide revised proposals solely to amend proposals due to Wage Determination changes. This does not constitute and shall not be construed as discussions if award without discussions is contemplated.

**5. AWARD and DEBRIEFINGS**

5.1. Award: A written award or acceptance of offer mailed, or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall be deemed to result in a binding contract without further action by either party.

**5.2. Debriefings**

5.2.1. Offerors excluded from the competitive range or otherwise excluded from the competition before award may submit a written request for a debriefing to the Contracting Officer in accordance with FAR 15.505.

5.2.2. After award, unsuccessful offerors may submit a written request for a debriefing to the Contracting Officer in accordance with FAR 15.506.

## Section 00 45 00 - Representations and Certifications

## CLAUSES INCORPORATED BY REFERENCE

52.236-28	Preparation of Proposals--Construction	OCT 1997
252.203-7005	Representation Relating to Compensation of Former DoD Officials	SEP 2022
252.204-7008	Compliance With Safeguarding Covered Defense Information Controls	OCT 2016
252.204-7016	Covered Defense Telecommunications Equipment or Services -- Representation	DEC 2019
252.225-7055	Representation Regarding Business Operations with the Maduro Regime	MAY 2022

## CLAUSES INCORPORATED BY FULL TEXT

## 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (DEC 2022)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 238990.

(2) The small business size standard is \$19,000,000.

(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 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:

(  ) Paragraph (d) applies.

(  ) 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 Certification. This provision applies to all solicitations.

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

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

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

(ii) 52.204-20, Predecessor of Offeror.

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

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

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

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

(vii) 52.227-6, Royalty Information.

(A) Basic.

(B) Alternate I.

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

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

FAR Clause	Title	Date	Change
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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)

52.204-24 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021)

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 Products and Commercial Services. 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) Representations. 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.

(End of provision)

252.204-7007 ALTERNATE A, ANNUAL REPRESENTATIONS AND CERTIFICATIONS (MAY 2021)

Substitute the following paragraphs (b), (d) and (e) for paragraphs (b) and (d) of the provision at FAR 52.204-8:

(b)(1) If the provision at FAR 52.204-7, System for Award Management, is included in this solicitation, paragraph (e) of this provision applies.

(2) If the provision at FAR 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 (e) 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 (e) applies.

(ii) Paragraph (e) does not apply and the Offeror has completed the individual representations and certifications in the solicitation.

(d)(1) The following representations or certifications in the SAM database are applicable to this solicitation as indicated:

(i) 252.204-7016, Covered Defense Telecommunications Equipment or Services--Representation. Applies to all solicitations.

(ii) 252.216-7008, Economic Price Adjustment--Wage Rates or Material Prices Controlled by a Foreign Government. Applies to solicitations for fixed-price supply and service contracts when the contract is to be performed wholly or in part in a foreign country, and a foreign government controls wage rates or material prices and may during contract performance impose a mandatory change in wages or prices of materials.

(iii) 252.225-7042, Authorization to Perform. Applies to all solicitations when performance will be wholly or in part in a foreign country.

(iv) 252.225-7049, Prohibition on Acquisition of Certain Foreign Commercial Satellite Services--Representations. Applies to solicitations for the acquisition of commercial satellite services.

(v) 252.225-7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism. Applies to all solicitations expected to result in contracts of \$150,000 or more.

(vi) 252.229-7012, Tax Exemptions (Italy)--Representation. Applies to solicitations when contract performance will be in Italy.

(vii) 252.229-7013, Tax Exemptions (Spain)--Representation. Applies to solicitations when contract performance will be in Spain.

(viii) 252.247-7022, Representation of Extent of Transportation by Sea. Applies to all solicitations except those for direct purchase of ocean transportation services or those with an anticipated value at or below the simplified acquisition threshold.

(2) The following representations or certifications in SAM are applicable to this solicitation as indicated by the Contracting Officer:

(i) 252.209-7002, Disclosure of Ownership or Control by a Foreign Government.

(ii) 252.225-7000, Buy American--Balance of Payments Program Certificate.

(iii) 252.225-7020, Trade Agreements Certificate.

Use with Alternate I.

(iv) 252.225-7031, Secondary Arab Boycott of Israel.

(v) 252.225-7035, Buy American--Free Trade Agreements--Balance of Payments Program Certificate.

Use with Alternate I.

Use with Alternate II.

Use with Alternate III.

Use with Alternate IV.

Use with Alternate V.

(vi) 252.226-7002, Representation for Demonstration Project for Contractors Employing Persons with Disabilities.

(vii) 252.232-7015, Performance-Based Payments--Representation.

(e) The Offeror has completed the annual representations and certifications electronically via the SAM website at <https://www.acquisition.gov/>. After reviewing the SAM database 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 FAR 52.204-8(c) and paragraph (d) 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 provision 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/DFARS provision No.	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 located in the SAM database.

(End of provision)

252.204-7017 PROHIBITION ON THE ACQUISITION OF COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES--REPRESENTATION (MAY 2021)

The Offeror is not required to complete the representation in this provision if the Offeror has represented in the provision at 252.204-7016, Covered Defense Telecommunications Equipment or Services--Representation, that it “does not provide covered defense 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.”

(a) Definitions. Covered defense telecommunications equipment or services, covered mission, critical technology, and substantial or essential component, as used in this provision, have the meanings given in the 252.204-7018 clause, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services, of this solicitation.

(b) Prohibition. Section 1656 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) prohibits agencies from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service to carry out covered missions that uses covered defense telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Procedures. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) at <https://www.sam.gov> for entities that are excluded when providing any equipment, system, or service to carry out covered missions that uses covered defense telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless a waiver is granted.

(d) Representation. If in its annual representations and certifications in SAM the Offeror has represented in paragraph (c) of the provision at 252.204-7016, Covered Defense Telecommunications Equipment or Services--Representation, that it “does” provide covered defense 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, then the Offeror shall complete the following additional representation:

The Offeror represents that it [ ] will [ ] will not provide covered defense telecommunications equipment or services as a part of its offered products or services to DoD in the performance of any award resulting from this solicitation.

(e) Disclosures. If the Offeror has represented in paragraph (d) of this provision that it “will provide covered defense telecommunications equipment or services,” the Offeror shall provide the following information as part of the offer:

(1) A description of all covered defense telecommunications equipment and services offered (include brand or manufacturer; product, such as model number, original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable).

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

(3) For services, the entity providing the covered defense telecommunications services (include entity name, unique entity identifier, and Commercial and Government Entity (CAGE) code, if known).

(4) For equipment, the entity that produced or provided the covered defense telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known).

(End of provision)

Section 00 70 00 - Conditions of the Contract

INSPECTION AND ACCEPTANCE TERMS

Supplies/services will be inspected/accepted at:

CLIN	INSPECT AT	INSPECT BY	ACCEPT AT	ACCEPT BY
0001	Destination	Government	Destination	Government

## Section 00 72 00 - General Conditions

## CLAUSES INCORPORATED BY REFERENCE

52.202-1	Definitions	JUN 2020
52.203-5	Covenant Against Contingent Fees	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
52.203-19	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
52.204-18	Commercial and Government Entity Code Maintenance	AUG 2020
52.204-19	Incorporation by Reference of Representations and Certifications.	DEC 2014
52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities	NOV 2021
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	NOV 2021
52.209-10	Prohibition on Contracting With Inverted Domestic Corporations	NOV 2015
52.211-13	Time Extensions	SEP 2000
52.211-18	Variation in Estimated Quantity	APR 1984
52.215-10	Price Reduction for Defective Certified Cost or Pricing Data	AUG 2011
52.215-11 (Dev)	Price Reduction for Defective Certified Cost or Pricing Data-- Modifications (DEVIATION 2022-O0001)	OCT 2021
52.215-12	Subcontractor Certified Cost or Pricing Data	JUN 2020
52.215-13	Subcontractor Certified Cost or Pricing Data--Modifications	JUN 2020
52.219-3	Notice of HUBZone Set-Aside or Sole-Source Award	OCT 2022
52.219-6	Notice Of Total Small Business Set-Aside	NOV 2020
52.219-8 (Dev)	Utilization of Small Business Concerns (Deviation 2023- O0002)	DEC 2022
52.219-9 Alt II	Small Business Subcontracting Plan (OCT 2022) Alternate II	NOV 2016
52.219-33	Nonmanufacturer Rule	SEP 2021
52.222-3	Convict Labor	JUN 2003
52.222-6	Construction Wage Rate Requirements	AUG 2018
52.222-7	Withholding of Funds	MAY 2014
52.222-8	Payrolls and Basic Records	JUL 2021
52.222-9	Apprentices and Trainees	JUL 2005
52.222-10	Compliance with Copeland Act Requirements	FEB 1988
52.222-11	Subcontracts (Labor Standards)	MAY 2014
52.222-12	Contract Termination-Debarment	MAY 2014

52.222-13	Compliance With Construction Wage Rate Requirements and Related Regulations	MAY 2014
52.222-14	Disputes Concerning Labor Standards	FEB 1988
52.222-15	Certification of Eligibility	MAY 2014
52.222-21	Prohibition Of Segregated Facilities	APR 2015
52.222-26	Equal Opportunity	SEP 2016
52.222-27	Affirmative Action Compliance Requirements for Construction	APR 2015
52.222-35	Equal Opportunity for Veterans	JUN 2020
52.222-36	Equal Opportunity for Workers with Disabilities	JUN 2020
52.222-37	Employment Reports on Veterans	JUN 2020
52.222-41	Service Contract Labor Standards	AUG 2018
52.222-50	Combating Trafficking in Persons	NOV 2021
52.222-54	Employment Eligibility Verification	MAY 2022
52.222-55	Minimum Wages for Contractor Workers Under Executive Order 14026	JAN 2022
52.222-62	Paid Sick Leave Under Executive Order 13706	JAN 2022
52.223-5	Pollution Prevention and Right-to-Know Information	MAY 2011
52.223-18	Encouraging Contractor Policies To Ban Text Messaging While Driving	JUN 2020
52.223-21	Foams	JUN 2016
52.225-13	Restrictions on Certain Foreign Purchases	FEB 2021
52.228-2	Additional Bond Security	OCT 1997
52.228-5	Insurance - Work On A Government Installation	JAN 1997
52.228-11 (Dev)	Individual Surety--Pledge of Assets (DEVIATION 2020-O0016)	FEB 2021
52.228-12	Prospective Subcontractor Requests for Bonds	DEC 2022
52.228-14	Irrevocable Letter of Credit	NOV 2014
52.228-17	Individual Surety--Pledge of Assets (Bid Guarantee)	FEB 2021
52.229-3	Federal, State And Local Taxes	FEB 2013
52.229-11	Tax on Certain Foreign Procurements--Notice and Representation	JUN 2020
52.229-12	Tax on Certain Foreign Procurements	FEB 2021
52.232-17	Interest	MAY 2014
52.232-23 Alt I	Assignment of Claims (May 2014) - Alternate I	APR 1984
52.232-27	Prompt Payment for Construction Contracts	JAN 2017
52.232-29	Terms for Financing of Purchases of Commercial Products and Commercial Services	NOV 2021
52.232-33	Payment by Electronic Funds Transfer--System for Award Management	OCT 2018
52.232-39	Unenforceability of Unauthorized Obligations	JUN 2013
52.232-40	Providing Accelerated Payments to Small Business Subcontractors	NOV 2021
52.233-1 Alt I	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
52.236-1	Performance of Work by the Contractor	APR 1984
52.236-2	Differing Site Conditions	APR 1984
52.236-3	Site Investigation and Conditions Affecting the Work	APR 1984
52.236-4	Physical Data	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
52.236-15	Schedules for Construction Contracts	APR 1984
52.236-21	Specifications and Drawings for Construction	FEB 1997
52.242-13	Bankruptcy	JUL 1995
52.242-14	Suspension of Work	APR 1984
52.243-1 Alt III	Changes--Fixed Price (Aug 1987) - Alternate III	APR 1984
52.243-4	Changes	JUN 2007
52.244-6	Subcontracts for Commercial Products and Commercial Services	DEC 2022
52.246-12	Inspection of Construction	AUG 1996
52.246-21	Warranty of Construction	MAR 1994
52.247-15	Contractor Responsibility for Loading and Unloading	APR 1984
52.249-1 Alt I	Termination for Convenience of the Government (Fixed-price) (Short Form) (Apr 1984) - Alternate I	APR 1984
52.249-2	Termination For Convenience Of The Government (Fixed-Price)	APR 2012
52.249-10	Default (Fixed-Price Construction)	APR 1984
252.201-7000	Contracting Officer's Representative	DEC 1991
252.203-7000	Requirements Relating to Compensation of Former DoD Officials	SEP 2011
252.203-7001	Prohibition On Persons Convicted of Fraud or Other Defense-Contract-Related Felonies	DEC 2022
252.203-7002	Requirement to Inform Employees of Whistleblower Rights	DEC 2022
252.204-7003	Control Of Government Personnel Work Product	APR 1992
252.204-7004	Antiterrorism Awareness Training for Contractors.	FEB 2019
252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting	DEC 2019
252.204-7015	Notice of Authorized Disclosure of Information for Litigation Support	MAY 2016
252.204-7018	Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services	JAN 2021
252.209-7004	Subcontracting With Firms That Are Owned or Controlled By The Government of a Country that is a State Sponsor of Terrorism	MAY 2019
252.223-7006	Prohibition On Storage, Treatment, and Disposal of Toxic or Hazardous Materials	SEP 2014
252.223-7008	Prohibition of Hexavalent Chromium	JUN 2013
252.225-7048	Export-Controlled Items	JUN 2013
252.225-7056	Prohibition Regarding Business Operations with the Maduro Regime	MAY 2022
252.232-7003	Electronic Submission of Payment Requests and Receiving Reports	DEC 2018
252.232-7010	Levies on Contract Payments	DEC 2006
252.232-7011	Payments in Support of Emergencies and Contingency Operations	MAY 2013
252.236-7000	Modification Proposals-Price Breakdown	DEC 1991
252.237-7010	Prohibition on Interrogation of Detainees by Contractor Personnel	JUN 2013
252.242-7006	Accounting System Administration	FEB 2012
252.243-7001	Pricing Of Contract Modifications	DEC 1991

252.243-7002	Requests for Equitable Adjustment	DEC 2022
252.244-7000	Subcontracts for Commercial Items	DEC 2022
252.246-7004	Safety of Facilities, Infrastructure, and Equipment for Military Operations	OCT 2010

#### CLAUSES INCORPORATED BY FULL TEXT

##### 52.204-1 APPROVAL OF CONTRACT (DEC 1989)

This contract is subject to the written approval of the contracting officer and shall not be binding until so approved.

(End of clause)

##### 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021)

(a) Definitions. As used in this clause--

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means--

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means--

- (1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;
- (2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled--

- (i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
- (ii) For reasons relating to regional stability or surreptitious listening;
- (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
- (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
- (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or
- (6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(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. The Contractor is prohibited from providing to the Government 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, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

(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, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. 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.

(c) Exceptions. This clause does not prohibit contractors from providing--

- (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

#### 52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)

The Contractor shall be required to (a) commence work under this contract within **30** calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than **365 calendar days**. The time stated for completion shall include final cleanup of the premises.

(End of clause)

## 52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (DEVIATION 2023-O0002) (MAR 2023)

(a) Definitions. As used in this provision-

Economically disadvantaged women-owned small business (EDWOSB) concern means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

Service-disabled veteran-owned small business concern-

(1) Means a small business concern-

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

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

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

Small business concern—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (b) of this provision.

(2) Affiliates, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

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

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

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

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$850,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

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

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

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

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

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

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

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

Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with 13 CFR part 127) means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300.

(b)(1) The North American Industry Classification System (NAICS) code for this acquisition is [238990].

(2) The small business size standard is [\$19,000,000].

(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 (i.e., nonmanufacturer), 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.

(c) Representations.

(1) The offeror represents as part of its offer that—

(i) It [ \_\_\_ ] is, [ \_\_\_ ] is not a small business concern; or

(ii) It [ \_\_\_ ] is, [ \_\_\_ ] is not a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_ .]

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

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

(4) Women-owned small business (WOSB) joint venture eligible under the WOSB Program. The offeror represents as part of its offer that it [ \_\_\_ ] is, [ \_\_\_ ] is not a joint venture that complies with the requirements of 13 CFR

127.506(a) through (c). [ The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_ .]

(5) Economically disadvantaged women-owned small business (EDWOSB) joint venture. The offeror represents as part of its offer that it [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [ The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_ .]

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

(7) [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(6) of this provision.] The offeror represents as part of its offer that

(i) It [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a service-disabled veteran-owned small business concern; or

(ii) It [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a service-disabled veteran-owned joint venture that complies with the requirements of 13 CFR 125.18(b)(1) and (2). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_ .] Each service-disabled veteran-owned small business concern participating in the joint venture shall provide representation of its service-disabled veteran-owned small business concern status.

(8) [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, as part of its offer, that-

(i) It [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a HUBZone small business concern listed, on the date of this representation, as having been certified by SBA as a HUBZone small business concern in the Dynamic Small Business Search and SAM, and will attempt to maintain an employment rate of HUBZone residents of 35 percent of its employees during performance of a HUBZone contract (see 13 CFR 126.200(e)(1)); and

(ii) It [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a HUBZone joint venture that complies with the requirements of 13 CFR 126.616(a) through (c). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_ .] Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.

(d) Notice. Under 15 U.S.C.645(d), any person who misrepresents a firm's status as a business concern that is small, HUBZone small, small disadvantaged, service-disabled veteran-owned small, economically disadvantaged women-owned small, or women-owned small eligible under the WOSB Program in order to obtain a contract to be awarded under the preference programs established pursuant to section 8, 9, 15, 31, and 36 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall-

(1) Be punished by imposition of fine, imprisonment, or both;

(2) Be subject to administrative remedies, including suspension and debarment; and

(3) Be ineligible for participation in programs conducted under the authority of the Act.

(End of provision)

#### 52.219-14 LIMITATIONS ON SUBCONTRACTING (DEVIATION 2021-O0008) (OCT 2022)

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) Definition. "Similarly situated entity," as used in this clause, means a first-tier subcontractor, including an independent contractor, that—

- (1) Has the same small business program status as that which qualified the prime contractor for the award (e.g., for a small business set-aside contract, any small business concern, without regard to its socioeconomic status); and
- (2) Is considered small for the size standard under the North American Industry Classification System (NAICS) code the prime contractor assigned to the subcontract.
- (c) Applicability. This clause applies only to—
- (1) Contracts that have been set aside for any of the small business concerns identified in 19.000(a)(3);
- (2) Part or parts of a multiple-award contract that have been set aside for any of the small business concerns identified in 19.000(a)(3);
- (3) Contracts that have been awarded on a sole-source basis in accordance with subparts 19.8, 19.13, 19.14, and 19.15;
- (4) Orders expected to exceed the simplified acquisition threshold and that are—
- (i) Set aside for small business concerns under multiple-award contracts, as described in 8.405-5 and 16.505(b)(2)(i)(F); or
- (ii) Issued directly to small business concerns under multiple-award contracts as described in 19.504(c)(1)(ii);
- (5) Orders, regardless of dollar value, that are—
- (i) Set aside in accordance with subparts 19.8, 19.13, 19.14, or 19.15 under multiple-award contracts, as described in 8.405-5 and 16.505(b)(2)(i)(F); or
- (ii) Issued directly to concerns that qualify for the programs described in subparts 19.8, 19.13, 19.14, or 19.15 under multiple-award contracts, as described in 19.504(c)(1)(ii); and
- (6) Contracts using the HUBZone price evaluation preference to award to a HUBZone small business concern unless the concern waived the evaluation preference.
- (d) Independent contractors. An independent contractor shall be considered a subcontractor.
- (e) Limitations on subcontracting. By submission of an offer and execution of a contract, the Contractor agrees that in performance of a contract assigned a North American Industry Classification System (NAICS) code for—
- (1) Services (except construction), it will not pay more than 50 percent of the amount paid by the Government for contract performance, excluding certain other direct costs and certain work performed outside the United States (see paragraph (e)(1)(i)), to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the prime contractor's 50 percent subcontract amount that cannot be exceeded. When a contract includes both services and supplies, the 50 percent limitation shall apply only to the service portion of the contract. The following services may be excluded from the 50 percent limitation:
- (i) Other direct costs, to the extent they are not the principal purpose of the acquisition and small business concerns do not provide the service. Examples include airline travel, work performed by a transportation or disposal entity under a contract assigned the environmental remediation NAICS code 562910), cloud computing services, or mass media purchases.
- (ii) Work performed outside the United States on awards made pursuant to the Foreign Assistance Act of 1961, or work performed outside the United States required to be performed by a local contractor.
- (2) Supplies (other than procurement from a nonmanufacturer of such supplies), it will not pay more than 50 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the prime contractor's 50 percent subcontract amount that cannot be exceeded. When a contract includes both supplies and services, the 50 percent limitation shall apply only to the supply portion of the contract;
- (3) General construction, it will not pay more than 85 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the prime contractor's 85 percent subcontract amount that cannot be exceeded; or
- (4) Construction by special trade contractors, it will not pay more than 75 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the prime contractor's 75 percent subcontract amount that cannot be exceeded.
- (f) The Contractor shall comply with the limitations on subcontracting as follows:
- (1) For contracts, in accordance with paragraphs (c)(1), (2), (3) and (6) of this clause –
- [Contracting Officer check as appropriate.]
- \_\_\_ By the end of the base term of the contract and then by the end of each subsequent option period; or
- \_\_\_ By the end of the performance period for each order issued under the contract.

(2) For orders, in accordance with paragraphs (c)(4) and (5) of this clause, by the end of the performance period for the order.

(g) A joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (e) of this clause will be performed by the aggregate of the joint venture participants.

(1) In a joint venture comprised of a small business protege and its mentor approved by the Small Business Administration, the small business protege shall perform at least 40 percent of the work performed by the joint venture. Work performed by the small business protege in the joint venture must be more than administrative functions.

(2) In an 8(a) joint venture, the 8(a) participant(s) shall perform at least 40 percent of the work performed by the joint venture. Work performed by the 8(a) participants in the joint venture must be more than administrative functions.

(End of clause)

#### 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (OCT 2022)

(a) Definitions. As used in this clause--

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

Small business concern--

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (d) of this clause.

(2) Affiliates, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

(b) If the Contractor represented that it was any of the small business concerns identified in 19.000(a)(3) prior to award of this contract, the Contractor shall rerepresent its size and socioeconomic status according to paragraph (f) of this clause or, if applicable, paragraph (h) of this clause, upon occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts--

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) If the Contractor represented that it was any of the small business concerns identified in 19.000(a)(3) prior to award of this contract, the Contractor shall rerepresent its size and socioeconomic status according to paragraph (f) of this clause or, if applicable, paragraph (h) of this clause, when the Contracting Officer explicitly requires it for an order issued under a multiple-award contract.

(d) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code(s) assigned to this contract. The small business size standard corresponding to this NAICS code(s) can be found at <https://www.sba.gov/document/support--table-size-standards>.

(e) The small business size standard for a Contractor providing an end item that it does not manufacture, process, or produce itself, for a contract other than a construction or service contract, is 500 employees if the acquisition--

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

(2) Used the HUBZone price evaluation preference regardless of dollar value, unless the Contractor waived the price evaluation preference; or

(3) Was 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.

(f) Except as provided in paragraph (h) of this clause, the Contractor shall make the representation(s) required by paragraph (b) and (c) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause, or with its offer for an order (see paragraph (c) of this clause), that the data have been validated or updated, and provide the date of the validation or update.

(g) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (f) or (h) of this clause.

(h) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

(1) The Contractor represents that it [ ] is, [ ] is not a small business concern under NAICS Code assigned to contract number .

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

(3) [Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.] The Contractor represents that it [ ] is, [ ] is not a women-owned small business concern.

(4) Women-owned small business (WOSB) joint venture eligible under the WOSB Program. The Contractor represents that it [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [The Contractor shall enter the name and unique entity identifier of each party to the joint venture: .]

(5) Economically disadvantaged women-owned small business (EDWOSB) joint venture. The Contractor represents that it [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [The Contractor shall enter the name and unique entity identifier of each party to the joint venture: .]

(6) [Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.] The Contractor represents that it [ ] is, [ ] is not a veteran-owned small business concern.

(7) [Complete only if the Contractor represented itself as a veteran-owned small business concern in paragraph (h)(6) of this clause.] The Contractor represents that it [ ] is, [ ] is not a service-disabled veteran-owned small business concern.

(8) [Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.] The Contractor represents that--

(i) It [ ] is, [ ] is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR part 126; and

(ii) It [ ] is, [ ] is not a HUBZone joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (h)(8)(i) of this clause is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [The Contractor shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: .] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

[Contractor to sign and date and insert authorized signer's name and title.]

(End of clause)

52.222-23 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY FOR CONSTRUCTION (FEB 1999)

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

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

Goals for minority participation for each trade	Goals for female participation for each trade
7.5%	6.9%

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

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform

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

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

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

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is **Cheyenne, Wyoming located in Laramie County.**

(End of provision)

#### 52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and (f).

(1) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor's plants and offices so that the notice is prominent and readily seen by employees who are covered by the National Labor Relations Act and engage in activities related to the performance of the contract.

(2) If the Contractor customarily posts notices to employees electronically, then the Contractor shall also post the required notice electronically by displaying prominently, on any Web site that is maintained by the Contractor and is customarily used for notices to employees about terms and conditions of employment, a link to the Department of Labor's Web site that contains the full text of the poster. The link to the Department's Web site, as referenced in (b)(3) of this section, must read, "Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers."

(b) This required employee notice, printed by the Department of Labor, may be--

(1) Obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210, (202) 693-0123, or from any field office of the Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Provided by the Federal contracting agency if requested;

(3) Downloaded from the Office of Labor-Management Standards Web site at <http://www.dol.gov/olms/regs/compliance/EO13496.htm>; or

(4) Reproduced and used as exact duplicate copies of the Department of Labor's official poster.

(c) The required text of the employee notice referred to in this clause is located at Appendix A, Subpart A, 29 CFR Part 471.

(d) The Contractor shall comply with all provisions of the employee notice and related rules, regulations, and orders of the Secretary of Labor.

(e) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole or in part, and the Contractor may be suspended or debarred in accordance with 29 CFR 471.14 and subpart 9.4. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 471, which implements Executive Order 13496 or as otherwise provided by law.

(f) Subcontracts. (1) The Contractor shall include the substance of this clause, including this paragraph (f), in every subcontract that exceeds \$10,000 and will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009, so that such provisions will be binding upon each subcontractor.

(2) The Contractor shall not procure supplies or services in a way designed to avoid the applicability of Executive Order 13496 or this clause.

(3) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.

(4) However, if the Contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

(End of clause)

#### 52.225-9 BUY AMERICAN—CONSTRUCTION MATERIALS (OCT 2022)

(a) Definitions. As used in this clause--

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

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

(i) A commercial product (as defined in paragraph (1) of the definition of "commercial product" at Federal Acquisition Regulation (FAR) 2.101);

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

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

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

Component means an article, material, or supply incorporated directly into a construction material.

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

Cost of components means--

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

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

Critical component means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.

Critical item means a domestic construction material or domestic end product that is deemed critical to U.S. supply chain resiliency. The list of critical items is at FAR 25.105.

Domestic construction material means--

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

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

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

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

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

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

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

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

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

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

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

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

(b) Domestic preference.

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

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

None

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

(i) The cost of domestic construction material would be unreasonable.

(A) For domestic construction material that is not a critical item or does not contain critical components.

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

(2) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that is manufactured in the United States and does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that exceeds 55 percent domestic content as a domestic offer and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(3)(i)(A)(1) of this clause.

(3) The procedures in paragraph (b)(3)(i)(A)(2) of this clause will no longer apply as of January 1, 2030.

(B) For domestic construction material that is a critical item or contains critical components.

(1) The cost of a particular domestic construction material that is a critical item or contains critical components, subject to the requirements of the Buy American statute, is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent plus the additional preference factor identified for the critical item or construction material containing critical components listed at FAR 25.105.

(2) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest foreign offer of construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer, and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(3)(i)(B)(1) of this clause.

(3) The procedures in paragraph (b)(3)(i)(B)(2) of this clause will no longer apply as of January 1, 2030.

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

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

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

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

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

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) \*\
Item 1:			
Foreign construction material....	_____	_____	_____
Domestic construction material...	_____	_____	_____
Item 2:			
Foreign construction material....	_____	_____	_____
Domestic construction material...	_____	_____	_____

[\* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued)].  
[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]  
[Include other applicable supporting information.]

(End of clause)

52.228-15 PERFORMANCE AND PAYMENT BONDS-CONSTRUCTION (JUN 2020) (DEVIATION 2020-00016)

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

*Original contract price* means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) *Amount of required bonds.* Unless the resulting contract price is valued at or below the threshold specified in Federal Acquisition Regulation 28.102-1(a) on the date of award of this contract, the successful offeror shall furnish performance and payment bonds to the Contracting Officer as follows:

(1) *Performance bonds* (Standard Form 25, except that no seal is required). The penal amount of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(2) *Payment bonds* (Standard Form 25A, except that no seal is required). The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(3) *Additional bond protection.*

(i) The Government may require additional performance and payment bond protection if the contract price is increased. The increase in protection generally will equal 100 percent of the increase in contract price.

(ii) The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) *Furnishing executed bonds.* The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) *Surety or other security for bonds.* The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the *Federal Register* or may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6F01, Hyattsville, MD 20782. Or via the internet at <http://www.fms.treas.gov/c570/>.

(e) *Notice of subcontractor waiver of protection (40 U.S.C. 3133(c)).* Any waiver of the right to sue on the payment bond is void unless it is in writing, signed by the person whose right is waived, and executed after such person has first furnished labor or material for use in the performance of the contract.

(End of clause)

## 52.229-11 TAX ON CERTAIN FOREIGN PROCUREMENTS--NOTICE AND REPRESENTATION (JUN 2020)

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

Foreign person means any person other than a United States person.

Specified Federal procurement payment means any payment made pursuant to a contract with a foreign contracting party that is for goods, manufactured or produced, or services provided in a foreign country that is not a party to an international procurement agreement with the United States. For purposes of the prior sentence, a foreign country does not include an outlying area.

United States person as defined in 26 U.S.C. 7701(a)(30) means--

(1) A citizen or resident of the United States;

(2) A domestic partnership;

(3) A domestic corporation;

(4) Any estate (other than a foreign estate, within the meaning of 26 U.S.C. 701(a)(31)); and

(5) Any trust if--

(i) A court within the United States is able to exercise primary supervision over the administration of the trust; and

(ii) One or more United States persons have the authority to control all substantial decisions of the trust.

(b) Unless exempted, there is a 2 percent tax of the amount of a specified Federal procurement payment on any foreign person receiving such payment. See 26 U.S.C. 5000C and its implementing regulations at 26 CFR 1.5000C-1 through 1.5000C-7.

(c) Exemptions from withholding under this provision are described at 26 CFR 1.5000C-1(d)(5) through (7). The Offeror would claim an exemption from the withholding by using the Department of the Treasury Internal Revenue Service Form W-14, Certificate of Foreign Contracting Party Receiving Federal Procurement Payments, available via the internet at [www.irs.gov/w14](http://www.irs.gov/w14). Any exemption claimed and self-certified on the IRS Form W-14 is subject to audit by the IRS. Any disputes regarding the imposition and collection of the 26 U.S.C. 5000C tax are adjudicated by the IRS as the 26 U.S.C. 5000C tax is a tax matter, not a contract issue. The IRS Form W-14 is provided to the acquiring agency rather than to the IRS.

(d) For purposes of withholding under 26 U.S.C. 5000C, the Offeror represents that--

(1) It  is  is not a foreign person; and

(2) If the Offeror indicates "is" in paragraph (d)(1) of this provision, then the Offeror represents that--I am claiming on the IRS Form W-14  a full exemption, or  partial or no exemption [Offeror shall select one] from the excise tax.

(e) If the Offeror represents it is a foreign person in paragraph (d)(1) of this provision, then--

(1) The clause at FAR 52.229-12, Tax on Certain Foreign Procurements, will be included in any resulting contract; and

(2) The Offeror shall submit with its offer the IRS Form W-14. If the IRS Form W-14 is not submitted with the offer, exemptions will not be applied to any resulting contract and the Government will withhold a full 2 percent of each payment.

(f) If the Offeror selects "is" in paragraph (d)(1) and "partial or no exemption" in paragraph (d)(2) of this provision, the Offeror will be subject to withholding in accordance with the clause at FAR 52.229-12, Tax on Certain Foreign Procurements, in any resulting contract.

(g) A taxpayer may, for a fee, seek advice from the Internal Revenue Service (IRS) as to the proper tax treatment of a transaction. This is called a private letter ruling. Also, the IRS may publish a revenue ruling, which is an official interpretation by the IRS of the Internal Revenue Code, related statutes, tax treaties, and regulations. A revenue ruling is the conclusion of the IRS on how the law is applied to a specific set of facts. For questions relating to the interpretation of the IRS regulations go to <https://www.irs.gov/help/tax-law-questions>.

(End of provision)

#### 52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (MAY 2014)

(a) Payment of price. The Government shall pay the Contractor the contract price as provided in this contract.

(b) Progress payments. The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.

(1) The Contractor's request for progress payments shall include the following substantiation:

(i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.

(ii) A listing of the amount included for work performed by each subcontractor under the contract.

(iii) A listing of the total amount of each subcontract under the contract.

(iv) A listing of the amounts previously paid to each such subcontractor under the contract.

(v) Additional supporting data in a form and detail required by the Contracting Officer.

(2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if--

(i) Consideration is specifically authorized by this contract; and

(ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) Contractor certification. Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

I hereby certify, to the best of my knowledge and belief, that--

(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and

(4) This certification is not to be construed as final acceptance of a subcontractor's performance.

\_\_\_\_\_

(Name)

\_\_\_\_\_

(Title)

\_\_\_\_\_

(Date)

(d) Refund of unearned amounts. If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the Contractor shall--

- (1) Notify the Contracting Officer of such performance deficiency; and
- (2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until--
  - (i) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or
  - (ii) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.
- (e) Retainage. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.
- (f) Title, liability, and reservation of rights. All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as--
  - (1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or
  - (2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.
- (g) Reimbursement for bond premiums. In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.
- (h) Final payment. The Government shall pay the amount due the Contractor under this contract after--
  - (1) Completion and acceptance of all work;
  - (2) Presentation of a properly executed voucher; and
  - (3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 6305).
- (i) Limitation because of undefinitized work. Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.
- (j) Interest computation on unearned amounts. In accordance with 31 U.S.C. 3903(c)(1), the amount payable under subparagraph (d)(2) of this clause shall be--

(1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and

(2) Deducted from the next available payment to the Contractor.

(End of clause)

#### 52.232-8 DISCOUNTS FOR PROMPT PAYMENT (FEB 2002)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

(End of clause)

#### 52.232-11 EXTRAS (APR 1984)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefore have been authorized in writing by the Contracting Officer.

(End of clause)

#### 52.232-32 PERFORMANCE-BASED PAYMENTS (APR 2012)

(a) Amount of payments and limitations on payments. Subject to such other limitations and conditions as are specified in this contract and this clause, the amount of payments and limitations on payments shall be specified in the contract's description of the basis for payment.

(b) Contractor request for performance-based payment. The Contractor may submit requests for payment of performance-based payments not more frequently than monthly, in a form and manner acceptable to the Contracting Officer. Unless otherwise authorized by the Contracting Officer, all performance-based payments in any period for which payment is being requested shall be included in a single request, appropriately itemized and totaled. The Contractor's request shall contain the information and certification detailed in paragraphs (l) and (m) of this clause.

(c) Approval and payment of requests.

(1) The Contractor shall not be entitled to payment of a request for performance-based payment prior to successful accomplishment of the event or performance criterion for which payment is requested. The Contracting Officer shall determine whether the event or performance criterion for which payment is requested has been successfully

accomplished in accordance with the terms of the contract. The Contracting Officer may, at any time, require the Contractor to substantiate the successful performance of any event or performance criterion which has been or is represented as being payable.

(2) A payment under this performance-based payment clause is a contract financing payment under the Prompt Payment clause of this contract and not subject to the interest penalty provisions of the Prompt Payment Act. The designated payment office will pay approved requests on the 30<sup>th</sup> day after receipt of the request for performance-based payment by the designated payment office. However, the designated payment office is not required to provide payment if the Contracting Officer requires substantiation as provided in paragraph (c)(1) of this clause, or inquiries into the status of an event or performance criterion, or into any of the conditions listed in paragraph (e) of this clause, or into the Contractor certification. The payment period will not begin until the Contracting Officer approves the request.

(3) The approval by the Contracting Officer of a request for performance-based payment does not constitute an acceptance by the Government and does not excuse the Contractor from performance of obligations under this contract.

(d) Liquidation of performance-based payments.

(1) Performance-based finance amounts paid prior to payment for delivery of an item shall be liquidated by deducting a percentage or a designated dollar amount from the delivery payment. If the performance-based finance payments are on a delivery item basis, the liquidation amount for each such line item shall be the percent of that delivery item price that was previously paid under performance-based finance payments or the designated dollar amount. If the performance-based finance payments are on a whole contract basis, liquidation shall be by either predesignated liquidation amounts or a liquidation percentage.

(2) If at any time the amount of payments under this contract exceeds any limitation in this contract, the Contractor shall repay to the Government the excess. Unless otherwise determined by the Contracting Officer, such excess shall be credited as a reduction in the unliquidated performance-based payment balance(s), after adjustment of invoice payments and balances for any retroactive price adjustments.

(e) Reduction or suspension of performance-based payments. The Contracting Officer may reduce or suspend performance-based payments, liquidate performance-based payments by deduction from any payment under the contract, or take a combination of these actions after finding upon substantial evidence any of the following conditions:

(1) The Contractor failed to comply with any material requirement of this contract (which includes paragraphs (h) and (i) of this clause).

(2) Performance of this contract is endangered by the Contractor's --

(i) Failure to make progress; or

(ii) Unsatisfactory financial condition.

(3) The Contractor is delinquent in payment of any subcontractor or supplier under this contract in the ordinary course of business.

(f) Title.

(1) Title to the property described in this paragraph (f) shall vest in the Government. Vestiture shall be immediately upon the date of the first performance-based payment under this contract, for property acquired or produced before that date. Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this contract

(2) "Property," as used in this clause, includes all of the following described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices:

(i) Parts, materials, inventories, and work in process;

(ii) Special tooling and special test equipment to which the Government is to acquire title;

(iii) Nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment and other similar manufacturing aids, title to which would not be obtained as special tooling under subparagraph (f)(2)(ii) of this clause; and

(iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this contract (e.g., the termination or clauses) shall determine the handling and disposition of the property.

(4) The Contractor may sell any scrap resulting from production under this contract, without requesting the Contracting Officer's approval, provided that any significant reduction in the value of the property to which the Government has title under this clause is reported in writing to the Contracting Officer.

(5) In order to acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor shall obtain the Contracting Officer's advance approval of the action and the terms. If approved, the basis for payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all performance-based payments, title shall vest in the Contractor for all property (or the proceeds thereof) not --

(i) Delivered to, and accepted by, the Government under this contract; or

(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

(g) Risk of loss. Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. If any property is lost (see 45.101), the basis of payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(h) Records and controls. The Contractor shall maintain records and controls adequate for administration of this clause. The Contractor shall have no entitlement to performance-based payments during any time the Contractor's records or controls are determined by the Contracting Officer to be inadequate for administration of this clause.

(i) Reports and Government access. The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information requested by the Contracting Officer for the administration of this clause and to determine that an event or other criterion prompting a financing payment has been successfully accomplished. The Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's records and to

examine and verify the Contractor's performance of this contract for administration of this clause.

(j) Special terms regarding default. If this contract is terminated under the Default clause,

(1) the Contractor shall, on demand, repay to the Government the amount of unliquidated performance-based payments, and

(2) title shall vest in the Contractor, on full liquidation of all performance-based payments, for all property for which the Government elects not to require delivery under the Default clause of this contract. The Government shall be liable for no payment except as provided by the Default clause.

(k) Reservation of rights.

(1) No payment or vesting of title under this clause shall --

(i) Excuse the Contractor from performance of obligations under this contract; or

(ii) Constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause --

(i) Shall not be exclusive, but rather shall be in addition to any other rights and remedies provided by law or this contract; and

(ii) Shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(l) Content of Contractor's request for performance-based payment. The Contractor's request for performance-based payment shall contain the following:

(1) The name and address of the Contractor;

(2) The date of the request for performance-based payment;

(3) The contract number and/or other identifier of the contract or order under which the request is made;

(4) Such information and documentation as is required by the contract's description of the basis for payment; and

(5) A certification by a Contractor official authorized to bind the Contractor, as specified in paragraph (m) of this clause.

(m) Content of Contractor's certification. As required in paragraph (l)(5) of this clause, the Contractor shall make the following certification in each request for performance-based payment:

I certify to the best of my knowledge and belief that --

(1) This request for performance-based payment is true and correct; this request (and attachments) has been prepared from the books and records of the Contractor, in accordance with the contract and the instructions of the Contracting Officer;

(2) (Except as reported in writing on \_\_\_\_\_), all payments to subcontractors and suppliers under this contract have been paid, or will be paid, currently, when due in the ordinary course of business;

(3) There are no encumbrances (except as reported in writing on \_\_\_\_\_) against the property acquired or

produced for, and allocated or properly chargeable to, the contract which would affect or impair the Government's title;

(4) There has been no materially adverse change in the financial condition of the Contractor since the submission by the Contractor to the Government of the most recent written information dated \_\_\_\_\_; and

(5) After the making of this requested performance-based payment, the amount of all payments for each deliverable item for which performance-based payments have been requested will not exceed any limitation in the contract, and the amount of all payments under the contract will not exceed any limitation in the contract.

(End of Clause)

#### 52.236-26 PRECONSTRUCTION CONFERENCE (FEB 1995)

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

(End of clause)

#### 52.247-12 SUPERVISION, LABOR, OR MATERIALS (APR 1984)

The Contractor shall furnish adequate supervision, labor, materials, supplies, and equipment necessary to perform all the services contemplated under this contract in an orderly, timely, and efficient manner.

(End of clause)

#### 52.248-3 VALUE ENGINEERING--CONSTRUCTION (OCT 2020)

(a) General. The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any instant contract savings realized from accepted VECP's, in accordance with paragraph (f) below.

(b) Definitions. "Collateral costs," as used in this clause, means agency costs of operation, maintenance, logistic support, or Government-furnished property.

"Collateral savings," as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs, including subcontractors' development and implementation costs (see paragraph (h) below).

"Value engineering change proposal (VECP)" means a proposal that--

(1) Requires a change to this, the instant contract, to implement; and

(2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change--

(i) In deliverable end item quantities only; or

(ii) To the contract type only.

(c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs(c) (1) through (7) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

(1) A description of the difference between the existing contract requirement and that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) A separate, detailed cost estimate for

(i) the affected portions of the existing contract requirement and

(ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (h) below.

(4) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(5) A prediction of any effects the proposed change would have on collateral costs to the agency.

(6) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(7) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) Submission. The Contractor shall submit VECP's to the Resident Engineer at the worksite, with a copy to the Contracting Officer.

(e) Government action.

(1) The Contracting Officer will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within

the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it shall not be liable for any delay in acting upon a VECP.

If the VECP is not accepted, the Contracting Officer will notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

(f) Sharing.

(1) Rates. The Government's share of savings is determined by subtracting Government costs from instant contract savings and multiplying the result by

(i) 45 percent for fixed-price contracts or

(ii) 75 percent for cost-reimbursement contracts.

(2) Payment. Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to--

(i) Accept the VECP;

(ii) Reduce the contract price or estimated cost by the amount of instant contract savings; and

(iii) Provide the Contractor's share of savings by adding the amount calculated to the contract price or fee.

(g) Collateral savings. If a VECP is accepted, the Contracting Officer will increase the instant contract amount by 20 percent of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer is the sole determiner of the amount of collateral savings.

(h) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$75,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) above, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

(i) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering-- Construction clause of contract . . . . . , shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations." If a VECP is accepted, the Contractor hereby grants the

Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

(End of clause)

#### 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

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

[www.acquisition.gov](http://www.acquisition.gov)

(End of clause)

#### 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (NOV 2020)

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

(b) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of clause)

#### 252.236-7001 CONTRACT DRAWINGS AND SPECIFICATIONS (AUG 2000)

(a) The Government will provide to the Contractor, without charge, one set of contract drawings and specifications, except publications incorporated into the technical provisions by reference, in electronic or paper media as chosen by the Contracting Officer.

(b) The Contractor shall--

- (1) Check all drawings furnished immediately upon receipt;
- (2) Compare all drawings and verify the figures before laying out the work;
- (3) Promptly notify the Contracting Officer of any discrepancies;
- (4) Be responsible for any errors that might have been avoided by complying with this paragraph (b); and
- (5) Reproduce and print contract drawings and specifications as needed.

(c) In general--

- (1) Large-scale drawings shall govern small-scale drawings; and

(2) The Contractor shall follow figures marked on drawings in preference to scale measurements.

(d) Omissions from the drawings or specifications or the misdescription of details of work that are manifestly necessary to carry out the intent of the drawings and specifications, or that are customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work. The Contractor shall perform such details as if fully and correctly set forth and described in the drawings and specifications.

(e) The work shall conform to the specifications and the contract drawings identified on the following index of drawings:

**Attachment 2 - DPEZ 182030 35% REPAIR INSTALLATION PERIMETER FENCING (23-R-0001)**

(End of clause)

## Section 00 73 00 - Supplementary Conditions

## CLAUSES INCORPORATED BY REFERENCE

252.204-7006 Billing Instructions

OCT 2005

## CLAUSES INCORPORATED BY FULL TEXT

## 252.232-7006 WIDE AREA WORKFLOW PAYMENT INSTRUCTIONS (DEC 2018)

(a) Definitions. As used in this clause—

“Department of Defense Activity Address Code (DoDAAC)” is a six position code that uniquely identifies a unit, activity, or organization.

“Document type” means the type of payment request or receiving report available for creation in Wide Area WorkFlow (WAWF).

“Local processing office (LPO)” is the office responsible for payment certification when payment certification is done external to the entitlement system.

“Payment request” and “receiving report” are defined in the clause at 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

(b) Electronic invoicing. The WAWF system provides the method to electronically process vendor payment requests and receiving reports, as authorized by Defense Federal Acquisition Regulation Supplement (DFARS) 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

(c) WAWF access. To access WAWF, the Contractor shall—

(1) Have a designated electronic business point of contact in the System for Award Management at <https://www.sam.gov>; and

(2) Be registered to use WAWF at <https://wawf.eb.mil/> following the step-by-step procedures for self-registration available at this web site.

(d) WAWF training. The Contractor should follow the training instructions of the WAWF Web-Based Training Course and use the Practice Training Site before submitting payment requests through WAWF. Both can be accessed by selecting the “Web Based Training” link on the WAWF home page at <https://wawf.eb.mil/>.

(e) WAWF methods of document submission. Document submissions may be via web entry, Electronic Data Interchange, or File Transfer Protocol.

(f) WAWF payment instructions. The Contractor shall use the following information when submitting payment requests and receiving reports in WAWF for this contract or task or delivery order:

(1) Document type. The Contractor shall submit payment requests using the following document type(s):

(i) For cost-type line items, including labor-hour or time-and-materials, submit a cost voucher.

(ii) For fixed price line items—

(A) That require shipment of a deliverable, submit the invoice and receiving report specified by the Contracting Officer.

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(B) For services that do not require shipment of a deliverable, submit either the Invoice 2in1, which meets the requirements for the invoice and receiving report, or the applicable invoice and receiving report, as specified by the Contracting Officer.

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(iii) For customary progress payments based on costs incurred, submit a progress payment request.

(iv) For performance based payments, submit a performance based payment request.

(v) For commercial item financing, submit a commercial item financing request.

(2) Fast Pay requests are only permitted when Federal Acquisition Regulation (FAR) 52.213-1 is included in the contract.

(3) Document routing. The Contractor shall use the information in the Routing Data Table below only to fill in applicable fields in WAWF when creating payment requests and receiving reports in the system.

Routing Data Table\*

<i>Field Name in WAWF</i>	<i>Data to be entered in WAWF</i>
Pay Official DoDAAC	_____
Issue By DoDAAC	_____
Admin DoDAAC**	_____
Inspect By DoDAAC	_____
Ship To Code	_____
Ship From Code	_____
Mark For Code	_____
Service Approver (DoDAAC)	_____
Service Acceptor (DoDAAC)	_____
Accept at Other DoDAAC	_____
LPO DoDAAC	_____
DCAA Auditor DoDAAC	_____
Other DoDAAC(s)	_____

(4) Payment request. The Contractor shall ensure a payment request includes documentation appropriate to the type of payment request in accordance with the payment clause, contract financing clause, or Federal Acquisition Regulation 52.216-7, Allowable Cost and Payment, as applicable.

(5) Receiving report. The Contractor shall ensure a receiving report meets the requirements of DFARS Appendix F.

(g) WAWF point of contact.

(1) The Contractor may obtain clarification regarding invoicing in WAWF from the following contracting activity's WAWF point of contact.

TSgt Christopher Davalos, 307-772-6887 or christopher.davalos.1@us.af.mil

(2) Contact the WAWF helpdesk at 866-618-5988, if assistance is needed.

(End of clause)