

This is a combined synopsis/solicitation for commercial items prepared in accordance with the format in Federal Acquisition Regulation (FAR) subpart 12.6, as supplemented with additional information included in this notice. This announcement constitutes the only solicitation; proposals are being requested and a written solicitation will not be issued.

- (i) This solicitation number **12FPC323Q0051** is issued as a Request for Quotation (RFQ) and the acquisition procedures at FAR Part 12 and 13 are being utilized. The Government intends to issue a firm fixed price (FFP) award based on the lowest price, technically acceptable quote that conforms to the solicitation requirements.
- (ii) This solicitation document and incorporated provisions and clauses are those in effect through Federal Acquisition Circular 2023-04 effective June 2, 2023.
- (iii) This is a total (100%) small business set-aside. NAICS code is 333111 (Farm Machinery & Equipment Manufacturing).
- (iv) **Line Item 0001** – No-Till Seed Drill, (see Technical Specifications for salient characteristics)
- (v) **Line Item 0002** – Required Accessories/Options to include spring loaded front coulters, tow kit, hydraulic kit with pump, small seed box, transport wheels, & removable seed plate covers, (see Technical Specifications)
- (vi) **Line Item 0003** – Shipping/delivery
- (vii) **Description of Requirement.** USDA-NRCS Albuquerque has a **Brand Name or Equal** requirement for a No-Till Seed Drill to be delivered to:

Los Lunas Plant Materials Center
1036 Miller Rd.
Los Lunas, NM 87301
- (viii) **Date(s) and Place(s) of Delivery and Acceptance.** Delivery date will be approximately 60 days after receipt of award.
- (ix) The provision at 52.212-1, Instructions to Offerors—Commercial, applies to this acquisition. The following addenda also apply. Addendum to 52.212-1, Modify (b): Submission of Offers to read as follows: **All Quotes shall be submitted on Company Letterhead, dated and sent via email to Ms. Julie Gavin, Contract Specialist, email: julie.gavin@usda.gov no later than June 20, 2023 at 1:00 PM MT.** The offeror shall include all applicable freight charges required to deliver all equipment to ground level in their price quote. The offeror shall provide a Firm Fixed Price quote that is in accordance with this solicitation. To be considered

technically acceptable the offeror must submit the following: 1) Priced quote on company letterhead; 2) Items must conform to the required specifications; 3) Registered and active in www.SAM.gov before award; 4) Provide Unique Entity ID number with quote and 5) Must have NAICS code 333111 in SAM.gov prior to award.

- (x) FAR provision 52.212-2, Evaluation-Commercial Items does not apply to this solicitation. The Government intends to make an award based on the Lowest Price, Technically Acceptable process.
- (xi) Offerors are required to complete the provision at 52.212-3, Offeror Representations and Certifications—Commercial Items. This must be completed at www.SAM.gov and the registration in an “Active” status.
- (xii) The clause at 52.212-4, Contract Terms and Conditions—Commercial Items, applies to this acquisition and addenda are not attached.

The clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, applies to this acquisition and the following additional FAR clauses cited in the clause are applicable to this acquisition.

(a) The Contractor shall comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- (1) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).
- (2) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115-91).
- (3) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).
- (4) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (NOV 2015).
- (5) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).
- (6) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- ___ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Jun 2020), with Alternate I (Nov 2021) (41 U.S.C. 4704 and 10 U.S.C. 4655).
- ___ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Nov 2021) (41 U.S.C. 3509)).
- ___ (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)
- ___ (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020) (Pub. L. 109-282) (31 U.S.C. 6101 note).
- ___ (5) [Reserved].
- ___ (6) 52.204-14, Service Contract Reporting Requirements (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).
- ___ (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).
- ___ (8) 52.204-27, Prohibition on a ByteDance Covered Application (Jun 2023) (Section 102 of Division R of Pub. L. 117-328).
- ___ (9) 52.209-6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Nov 2021) (31 U.S.C. 6101 note).
- ___ (10) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018) (41 U.S.C. 2313).
- ___ (11) [Reserved].
- ___ (12) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Oct 2022) (15 U.S.C. 657a).
- ___ (13) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2022) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
- ___ (14) [Reserved]
- X ___ (15) (i) 52.219-6, Notice of Total Small Business Set-Aside (NOV 2020) (15 U.S.C. 644). ___ (ii) Alternate I (MAR 2020) of 52.219-6.
- ___ (16) (i) 52.219-7, Notice of Partial Small Business Set-Aside (Nov 2020) (15 U.S.C. 644). ___ (ii) Alternate I (Mar 2020) of 52.219-7.
- ___ (17) 52.219-8, Utilization of Small Business Concerns (Oct 2022) (15 U.S.C. 637(d)(2) and (3)).
- ___ (18) (i) 52.219-9, Small Business Subcontracting Plan (Oct 2022) (15 U.S.C. 637(d)(4)). ___ (ii) Alternate I (Nov 2016) of 52.219-9. ___ (iii) Alternate II (Nov 2016) of 52.219-9. ___ (iv) Alternate III (Jun 2020) of 52.219-9. ___ (v) Alternate IV (Sep 2021) of 52.219-9.
- ___ (19) (i) 52.219-13, Notice of Set-Aside of Orders (Mar 2020) (15 U.S.C. 644(r)). ___ (ii) Alternate I (Mar 2020) of 52.219-13.
- ___ (20) 52.219-14, Limitations on Subcontracting (Oct 2022) (15 U.S.C. 637s).
- ___ (21) 52.219-16, Liquidated Damages—Subcontracting Plan (Sep 2021) (15 U.S.C. 637(d)(4)(F)(i)).
- ___ (22) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Oct 2022) (15 U.S.C. 657f).

- (23) (i) 52.219-28, Post Award Small Business Program Rerepresentation (Mar 2023)(15 U.S.C. 632(a)(2)).
- (ii) Alternate I (Mar 2020) of 52.219-28.
- (24) 52.219-29, Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Oct 2022) (15 U.S.C. 637(m)).
- (25) 52.219-30, Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Oct 2022) (15 U.S.C. 637(m)).
- (26) 52.219-32, Orders Issued Directly Under Small Business Reserves (Mar 2020) (15 U.S.C. 644(r)).
- (27) 52.219-33, Nonmanufacturer Rule (Sep 2021) (15U.S.C. 637(a)(17)).
- X (28) 52.222-3, Convict Labor (JUN 2003) (E.O.11755).
- X (29) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (DEC 2022) (E.O.13126)
- X (30) 52.222-21, Prohibition of Segregated Facilities (APR 2015)
- X (31) (i) 52.222-26, Equal Opportunity (SEP 2016) (E.O.11246)
- (ii) Alternate I (FEB 1999) of 52.222-26
- (32) (i) 52.222-35, Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212).
- (ii) Alternate I (Jul 2014) of 52.222-35.
- X (33) (i) 52.222-36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793)
- (ii) Alternate I (JUL 2014) of 52.222-36
- (34) 52.222-37, Employment Reports on Veterans (Jun 2020) (38 U.S.C. 4212).
- (35) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- X (36) (i) 52.222-50, Combating Trafficking in Persons (NOV 2021) (22 U.S.C. chapter 78 and E.O. 13627)
- (ii) Alternate I (MAR 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627)
- (37) 52.222-54, Employment Eligibility Verification (May 2022) (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial products or commercial services as prescribed in FAR 22.1803.)
- (38) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA– Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- (39) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).
- (40) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).
- (41) (i) 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514).
- (ii) Alternate I (Oct 2015) of 52.223-13.
- (42) (i) 52.223-14, Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).

- ___ (ii) Alternate I (Jun2014) of 52.223-14.
- ___ (43) 52.223-15, Energy Efficiency in Energy-Consuming Products (May 2020) (42 U.S.C. 8259b).
- ___ (44) (i) 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).
- ___ (ii) Alternate I (Jun 2014) of 52.223-16.
- X (45) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (JUN 2020) (E.O. 13513)
- ___ (46) 52.223-20, Aerosols (Jun 2016) (E.O. 13693).
- ___ (47) 52.223-21, Foams (Jun2016) (E.O. 13693).
- ___ (48) (i) 52.224-3 Privacy Training (Jan 2017) (5 U.S.C. 552 a). ___ (ii) Alternate I (JAN 2017) of 52.224-3
- X (49) 52.225-1, Buy American-Supplies (OCT 2022) (41 U.S.C. chapter 83)
- ___ (50) (i) 52.225-3, Buy American-Free Trade Agreements-Israeli Trade Act (Dec 2022) (19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, 19 U.S.C. chapter 29 (sections 4501-4732), Public Law 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43.
- ___ (ii) Alternate I [Reserved].
- ___ (iii) Alternate II (Dec 2022) of 52.225-3.
- ___ (iv) Alternate III (Jan 2021) of 52.225-3.
- ___ (v) Alternate IV (Oct 2022) of 52.225-3.
- ___ (51) 52.225-5, Trade Agreements (Dec 2022) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).
- ___ (52) 52.225-13, Restrictions on Certain Foreign Purchases (Feb 2021) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- ___ (53) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).
- ___ (54) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).
- ___ (55) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov2007) (42 U.S.C. 5150).
- ___ (56) 52.229-12, Tax on Certain Foreign Procurements (Feb 2021).
- ___ (57) 52.232-29, Terms for Financing of Purchases of Commercial Products and Commercial Services (Nov 2021) (41 U.S.C. 4505, 10 U.S.C. 3805).
- ___ (58) 52.232-30, Installment Payments for Commercial Products and Commercial Services (Nov 2021) (41 U.S.C. 4505, 10 U.S.C. 3805).
- X (59) 52.232-33, Payment by Electronic Funds Transfer-System for Award Management (OCT 2018)(31 U.S.C. 3332)
- ___ (60) 52.232-34, Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).
- ___ (61) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C. 3332).
- ___ (62) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).
- ___ (63) 52.242-5, Payments to Small Business Subcontractors (Jan 2017) (15 U.S.C. 637(d)(13)).

___ (64) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) (46 U.S.C. 55305 and 10 U.S.C. 2631).

___ (ii) Alternate I (Apr 2003) of 52.247-64.

___ (iii) Alternate II (Nov 2021) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

___ (1) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter 67).

___ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

___ (3) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (Aug 2018) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

___ (4) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

___ (5) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) (41 U.S.C. chapter 67).

___ (6) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) (41 U.S.C. chapter 67).

X (7) 52.222-55, Minimum Wages Under Executive Order 14026 (JAN 2022)

___ (8) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706)

___ (9) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (42 U.S.C. 1792)

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, as defined in FAR 2.101, on the date of award of this contract, and does not contain the clause at 52.215-2, Audit and Records-Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (JUN 2020) (41 U.S.C. 3509).

(ii) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)(section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions) .

(iii) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (JUL 2018) (Section 1634 of Pub. L. 115-91).

(iv) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (AUG 2020) (Section 889(a)(1)(A) of Pub. L. 115-232).

(v) 52.219-8, Utilization of Small Business Concerns (OCT 2018) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(vi) 52.222-21, Prohibition of Segregated Facilities (APR 2015)

(vii) 52.222-26, Equal Opportunity (SEP 2015) (E.O.11246)

(viii) 52.222-35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212)

(ix) 52.222-36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793)

(x) 52.222-37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212)

(xi) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40

(xii) 52.222-41, Service Contract Labor Standards (AUG 2018) (41 U.S.C. chapter 67)

(xiii) (A) 52.222-50, Combating Trafficking in Persons (OCT 2020) (22 U.S.C. chapter 78 and E.O 13627).(B) Alternate I (MAR 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627)

(xiv) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) (41 U.S.C. chapter 67)

(xv) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (MAY 2014) (41 U.S.C. chapter 67)

(xvi) 52.222-54, Employment Eligibility Verification (OCT 2015) (E.O. 12989)

(xvii) 52.222-55, Minimum Wages Under Executive Order 13658 (NOV 2020)

(xviii) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706)

(xix) (A) 52.224-3, Privacy Training (Jan 2017) (5 U.S.C. 552a). (B) Alternate I (JAN 2017) of 52.224-3

(xx) 52.225-26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note)

(xxi) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xxii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021)(46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64. (2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(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):

<https://www.acquisition.gov/?q=browsefar>

(End of Clause)

52.211-6 Brand Name or Equal (AUG 1999)

PART IV. REPRESENTATIONS AND INSTRUCTIONS

SECTION K. REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF BIDDERS

52.204-19 Incorporation by Reference of Representations and Certifications (Dec 2014) The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of Clause)

L. INSTRUCTIONS, CONDITIONS, AND NOTICES TO BIDDERS

52.225-1 Buy American-Supplies (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 an end product.

Cost of components means—

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (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 end product.

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 .

Domestic end product means—

(1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both-

(i) An unmanufactured end product mined or produced in the United States;

(ii) An end product 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 as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic; or

(B) The end product is a COTS item; or

(2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of foreign iron and steel constitutes less than 5 percent of the cost of all the components used in the end product. 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 end product 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 end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the definition of "cost of components".

End product means those articles, materials, and supplies to be acquired under the contract for public use.

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 end product means an end product other than a domestic end product.

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) 41 U.S.C. chapter 83, Buy American, provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 1907, the domestic content test of the Buy American statute is waived for an end product that is a COTS item (see 12.505(a)(1)), except that for an end product 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 end product, excluding COTS fasteners.

(c) Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

(d) The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled "Buy American Certificate."

(End of Clause)

52.211-6 Brand Name or Equal (AUG 1999)

(a) If an item in this solicitation is identified as "brand name or equal," the purchase description reflects the characteristics and level of quality that will satisfy the Government's needs. The salient physical, functional, or performance characteristics that "equal" products must meet are specified in the solicitation.

(b) To be considered for award, offers of "equal" products, including "equal" products of the brand name manufacturer, must-

(1) Meet the salient physical, functional, or performance characteristic specified in this solicitation;

(2) Clearly identify the item by-

(i) Brand name, if any; and

(ii) Make or model number;

(3) Include descriptive literature such as illustrations, drawings, or a clear reference to previously furnished descriptive data or information available to the Contracting Officer; and

(4) Clearly describe any modifications the offeror plans to make in a product to make it conform to the solicitation requirements. Mark any descriptive material to clearly show the modifications.

(c) The Contracting Officer will evaluate "equal" products on the basis of information furnished by the offeror or identified in the offer and reasonably available to the Contracting Officer. The Contracting Officer is not responsible for locating or obtaining any information not identified in the offer.

(d) Unless the offeror clearly indicates in its offer that the product being offered is an "equal" product, the offeror shall provide the brand name product referenced in the solicitation.

(End of Provision)

4I-52.233-70 Protests to the Agency. (Mar 2016)

(a) An agency protest filed with the contracting officer shall be sent to the contracting officer's mailing address or email address listed in the solicitation. The contractor should contact the contracting officer to verify the mailing or email address prior to delivering a protest.

(b) The independent review of a contracting officer's decision regarding a protest described at FAR 33.103(d)(4) is not available as an alternative to consideration of the protest by the contracting officer. An independent review is available only as an appeal of the contracting officer's decision on a protest. An appeal must be filed within 10 calendar days of the protestor's receipt of the contracting officer's decision, otherwise the appeal will be deemed untimely and not considered. The appeal must be directed to the Contracting Services Branch Chief but sent to the contracting officer.

(c) The protest must contain all of the elements required by FAR 33.103(d)(2). Failure to substantially comply with any of the requirements of FAR 33.103(d)(2) may be grounds for dismissal of the protest.

(End of Provision)

AGAR 452.219-70 Size Standard and NAICS Code Information. (Sep 2001)

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

Contract Line Item(s): All

NAICS Code: 333111 Size Standard: 1,250 employees.

(End of Provision)