

<b>SOLICITATION, OFFER, AND AWARD</b> <i>(Construction, Alteration, or Repair)</i>	1. SOLICITATION NO.  W912P523R0001	2. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED  25-Nov-2022	PAGE OF PAGES  1 OF 64
<b>IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.</b>				
4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO.  W38XDD22692481		6. PROJECT NO.	
7. ISSUED BY CODE W912P5  US ARMY CORPS OF ENGINEERS-CELRN-RC-N DIRECTORATE OF CONTRACTING 110 9TH AVENUE SOUTH, RM A405 NASHVILLE TN 37203  TEL: 615-736-7917 FAX: 615-736-7124		8. ADDRESS OFFER TO <i>(If Other Than Item 7)</i> CODE W912P5  US ARMY CORPS OF ENGINEERS-NASHVILLE CELRN-RC-N, 110 NINTH AVE. SOUTH NASHVILLE TN 37203  TEL: 615.736.7986 FAX:		
9. FOR INFORMATION CALL:	A. NAME CONNOR A STRUCKMEYER		B. TELEPHONE NO. <i>(Include area code) (NO COLLECT CALLS)</i> 615.736.7916	
<b>SOLICITATION</b>				
<b>NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".</b>				
10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS <i>(Title, identifying no., date):</i>  PROJECT TITLE: Wolf Creek Liquid Oxygen Cryogenic Facility at Wolf Creek Dam in Jamestown, KY  TYPE OF CONTRACT: Firm-Fixed Price Construction  DISCLOSURE OF MAGNITUDE OF THE PROPOSED CONSTRUCTION PROJECT: Between \$5,000,000 and \$20,000,000  NAICS: 236210, Industrial Building Construction  SIZE STANDARD: \$39.5M  TYPE OF SET ASIDE: This is a Full and Open procurement				
11. The Contractor shall begin performance within <u>10</u> calendar days and complete it within <u>574</u> calendar days after receiving <input type="checkbox"/> award, <input checked="" type="checkbox"/> notice to proceed. This performance period is <input checked="" type="checkbox"/> mandatory, <input type="checkbox"/> negotiable. <i>(See 52.211-10 _____.)</i>				
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	
13. ADDITIONAL SOLICITATION REQUIREMENTS:  A. Sealed offers in original and <u>1</u> copies to perform the work required are due at the place specified in Item 8 by _____ <i>(hour)</i> local time _____ <i>(date)</i> . 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.  B. An offer guarantee <input checked="" type="checkbox"/> is, <input type="checkbox"/> is not required.  C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.  D. Offers providing less than <u>60</u> 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>										
<b>14. NAME AND ADDRESS OF OFFEROR</b> <i>(Include ZIP Code)</i>					<b>15. TELEPHONE NO.</b> <i>(Include area code)</i>					
<div style="border: 1px solid black; height: 40px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; height: 40px;"></div>					<b>16. REMITTANCE ADDRESS</b> <i>(Include only if different than Item 14)</i>  <b>See Item 14</b>					
					<div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; width: 45%; padding: 2px;">CODE</div> <div style="border: 1px solid black; width: 45%; padding: 2px;">FACILITY CODE</div> </div>					
<b>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></b>										
<b>AMOUNTS</b>		<b>SEE SCHEDULE OF PRICES</b>								
<b>18. The offeror agrees to furnish any required performance and payment bonds.</b>										
<b>19. ACKNOWLEDGMENT OF AMENDMENTS</b> <i>(The offeror acknowledges receipt of amendments to the solicitation -- give number and date of each)</i>										
<b>AMENDMENT NO.</b>										
<b>DATE</b>										
<b>20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER</b> <i>(Type or print)</i>					<b>20B. SIGNATURE</b>				<b>20C. OFFER DATE</b>	
<b>AWARD (To be completed by Government)</b>										
<b>21. ITEMS ACCEPTED:</b>										
<b>22. AMOUNT</b>		<b>23. ACCOUNTING AND APPROPRIATION DATA</b>								
<b>24. SUBMIT INVOICES TO ADDRESS SHOWN IN</b> <i>(4 copies unless otherwise specified)</i>				<b>ITEM</b>	<b>25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO</b> <input type="checkbox"/> 10 U.S.C. 2304(c) <input type="checkbox"/> 41 U.S.C. 253(c)					
<b>26. ADMINISTERED BY</b>			<b>CODE</b>		<b>27. PAYMENT WILL BE MADE BY:</b> <b>CODE</b>					
<b>CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE</b>										
<input type="checkbox"/> <b>28. NEGOTIATED AGREEMENT</b> <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"/> <b>29. AWARD</b> <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 commutes the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.					
<b>30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN</b> <i>(Type or print)</i>					<b>31A. NAME OF CONTRACTING OFFICER</b> <i>(Type or print)</i>					
<b>30B. SIGNATURE</b>			<b>30C. DATE</b>		<b>TEL:</b> <b>EMAIL:</b>			<b>31B. UNITED STATES OF AMERICA</b> BY		<b>31C. AWARD DATE</b>

Section 00 10 00 - Solicitation

PRICE SCHEDULEPRICE SCHEDULE**W912P523R0001 – Wolf Creek Liquid Oxygen Cryogenic Facility  
Project in Jamestown, Kentucky**

\*An electronic Price Schedule is provided as a separate document in excel format titled “WOL Spillway Gates Price Schedule.xlsx” and may be submitted with the Offeror’s Price Proposal.\*

ITEM NO.	DESCRIPTION	SPEC. SECTION	EST. QTY.	UNIT	ESTIMATED AMOUNT
<b>CIVIL SITE WORK</b>					
0001	Performance and Payment Bonds	01 14 00	1	JOB	\$ -
0002	Demolition, Cleaning/Grubbing and Grading	02 41 00 31 00 00	1	JOB	\$ -
0003	Excavation	05 59 00 31 00 00	6,150	CY	\$ -
0004	Guardrail with End Treatment		180	LF	\$ -
0005	Bollards		32	EA	\$ -
0006	Paving	32 12 16	1,150	TN	\$ -
0007	Crushed Stone Base	32 11 23	4,111	TN	\$ -
0008	Waterline Construction		1	JOB	\$ -
0009	Permanent Traffic Signs	10 14 53	3	EA	\$ -
0010	Maintenance and Control of Traffic During Construction	01 55 26	1	JOB	\$ -
0011	Roadway Pavement Striping	32 17 23	1	JOB	\$ -
0012	Ductile Iron Encasement Pipe	31 00 00	297	LF	\$ -
0013	CLSM Backfill	02 20 20	180	CY	\$ -
0014	Security Fence	32 31 13	1	JOB	\$ -
0015	Preparation and installation of concrete slab for all mechanical and electrical systems	03 30 00	1	JOB	\$ -

0016	Pre-Fabricated Metal Structure	13 34 19	2	EA	\$ -
0017	Civil site finishing restoration	32 92 19	1	JOB	\$ -

**MECHANICAL WORK**

0018	Fabrication and delivery of liquid oxygen storage tanks, Ambient Vaporizers, Gaseous Oxygen Header	22 60 80	14	EA	\$ -
0019	Cryogenic Facility Piping, Supports, Materials and Installation	22 60 80	1	JOB	\$ -
0020	Cryogenic Facility Testing/Commissioning	22 60 80	1	JOB	\$ -

**ELECTRICAL WORK**

0021	Fiber optic data transmission system	27 10 00 27 21 10.00 40	1	JOB	\$ -
0022	Electrical service connection, power distribution, and lighting	33 71 01 26 56 00	1	JOB	\$ -
0023	Control System	26 20 00 40 60 00	1	JOB	\$ -
0024	CCTV Infrastructure and Site Prep	28 10 05 28 08 10	1	JOB	\$ -

**TOTAL ESTIMATED AMOUNT:**

\$ -

**OPTION 1A**

0025	Option 1A: CCTV Cameras and Integration	28 10 05 28 08 10	1	JOB	\$ -
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**Option 1A ESTIMATED AMOUNT:**

\$ -

**OPTION 1B**

0026	Option 1B: CCTV Cameras and Headend Equipment	28 10 05 28 08 10	1	JOB	\$ -
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**Option 1B ESTIMATED AMOUNT:**

\$ -

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	Liquid Oxygen Cryogenic Facility FFP FOB: Destination PURCHASE REQUEST NUMBER: W38XDD22692481 PSC CD: Y1EZ	1	Job		

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ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002 OPTION	Option 1A FFP Option 1A: CCTV Cameras and Integration FOB: Destination PURCHASE REQUEST NUMBER: W38XDD22692481 PSC CD: Y1EZ	1	Job		

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ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003		1	Job		
OPTION	Option 1B				
	FFP				
	CCTV Cameras and Headend Equipment				
	FOB: Destination				
	PURCHASE REQUEST NUMBER: W38XDD22692481				
	PSC CD: Y1EZ				

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## Section 00 21 00 - Instructions

INSTRUCTIONS TO OFFERORS**INSTRUCTIONS TO OFFERORS****1.0 GENERAL REQUIREMENTS****1.1 Intent**

This solicitation is to award a construction contract for the Wolf Creek Liquid Oxygen Cryogenic Facility in Jamestown, Kentucky.

**1.2 Project Description**

The scope of this requirement is to fabricate and install a liquid oxygen cryogenic facility at Wolf Creek Dam, Jamestown, Kentucky.

**1.3 Disclosure of Magnitude of Construction Project**

The estimated magnitude of this requirement is between \$5,000,000 and \$20,000,000.

**1.4 Basis of Award**

The award will be made to the responsible Offeror whose proposal conforms to the solicitation, is fair and reasonable, and offers the best overall value to the Government with appropriate consideration given to the four (4) evaluation factors: Past Performance; Technical Approach; Small Business Participation Plan; and Price. Factors are listed in descending order of importance. NOTE: When combined, the non-cost/price factors (Past Performance; Technical Approach; and Small Business Participation Plan) are APPROXIMATELY EQUAL to Price. Factors are illustrated:

Factor I –	Past Performance	1 <sup>st</sup>
Factor II –	Technical Approach	2 <sup>nd</sup>
Factor III –	Small Business Participation Plan	3 <sup>rd</sup>
Factor IV -	Price	Approximately EQUAL to Non-Cost/Price Factors

Offerors are reminded to include their best technical and price terms in their initial offer and not to assume they will have an opportunity to participate in discussions or be asked to submit a revised offer.

Proposals are intended to be evaluated and an award made without discussions with Offerors unless discussions are determined to be necessary. Additionally, any other than small business Offeror must have an acceptable Small Business Subcontracting Plan to receive an award in accordance with FAR 19.702(a).

Offerors are cautioned that the award may not necessarily be made to the lowest price offered.

**1.5 Type of Contract**

The Government intends to award one (1) firm fixed-price construction contract.

**1.6 Who May Submit**

This procurement is unrestricted to obtain full and open competition. Proposals from firms organized as joint ventures (JV) that have associated specifically for this project must include a copy of the legal joint venture agreement in the proposal submission.

### 1.7 North American Industry Classification System (NAICS) and Small Business Size Standard

The NAICS code for this project is 236210, entitled “Industrial Building Construction”, which has a Small Business Administration (SBA) size standard of \$39.5 Million.

### 1.8 Availability of Plans (Drawings), Technical Specifications and Additional Documents

All drawings, technical specifications, and additional documents relating to this Request for Proposal (RFP) are available for download at this solicitation posting on the SAM website, [www.SAM.gov](http://www.SAM.gov). No printed copies of the aforementioned documents will be provided by the Government. Although provided as separate attachments, the following documents are considered an official part of the solicitation.

The Specifications and Drawings are part of the contract and shall be considered in that respect (see Defense Federal Acquisition Regulation Supplement (DFARS) 252.236-7001, Contract Drawings and Specifications).

### 1.9 Pre-Proposal Site Visit

An organized site visit is scheduled during the solicitation period. Offerors should inspect the job site prior to submitting a proposal. Offerors should take such other steps as may be reasonably necessary to ascertain the nature and location of the work and the general and local conditions that can affect the work or the cost thereof. Failure to do so will not relieve Offerors from the responsibility for properly estimating the difficulty or cost of successfully performing the work. The Government assumes no responsibility for any understanding or representations concerning conditions made by any of its officers, agents or employees, unless included in the solicitation, the specifications or related documents.

Please refer to FAR 52.236-27 Alt 1, Site Visit (Construction), incorporated by full text in this solicitation, for information pertaining to the scheduled site visit.

This will be the only site visit for this project. If you miss the scheduled site visit, no other arrangements will be made due to personnel and time restrictions.

### 1.10 Requirements to Attend the Site Visit

**REGISTRATION:** Only registered persons will be permitted to attend the site visit. In addition to the information below, please also provide your firm’s name, firm’s CAGE and/or Unique Entity Identifier (known as DUNS) number, and name and position title of primary point-of-contact and their telephone number and email address.

**Only two (2) individuals from each business entity will be permitted to attend.**

**U.S. CITIZENS:** To register, U.S. citizens interested in attending the site visit shall submit a Nashville District Corps of Engineers (LRN) U.S. Citizen Security Access Form to the LRN Point of Contacts (POCs), Contract Specialist Connor Struckmeyer and Contracting Officer JW Purcell, no later than five (5) business days prior to the site visit. If submitting the document in less than five business (5) days prior, the person may not receive approval for participation. Notification of approval or denial will be provided prior to the date of the site visit. The form and guidance is available as a pdf attachment on <http://sam.gov> with this solicitation and is titled **U.S. Citizen Security Access Form**.

**FOREIGN NATIONALS (FNs):** All non-U.S. Citizens, including permanent residents wishing to attend the site visit must be approved in advance. FNs wishing to attend a site visit shall submit a completed Nashville District Corps of Engineers Foreign National Security Access Form and legible color copies of two (2) of the following documents: Passport (unexpired or expired), Certificate of U.S. Citizenship (INS Form N-560 04 N-561), Certificate of Naturalization (INS Form N-550 or N-570), unexpired foreign Passport with I-551 stamp or attached INS Form I-94 indicating unexpired employment authorization, an Alien Registration Receipt Card with photo (INS Form I-151 or I-551), unexpired Temporary Resident Card (INS Form I-688), unexpired Employment Authorization Card (INS Form I- 688A), unexpired Reentry Permit (INS Form I-327), unexpired Refugee Travel Document (INS Form I-571), or unexpired Employment Authorization Documentation issued by the INS which contains a photograph (INS



Form I-688B) to the LRN POCs. These documents must be submitted two (2) weeks prior to the site visit. FN requests require approval at the Headquarters U.S. Army Corps of Engineers (HQ USACE) level. Exceptions will be considered on a case-by-case basis but will be limited. The form is available as a pdf attachment on [www.sam.gov](http://www.sam.gov) with this solicitation and is titled **Foreign National Security Access Form**.

**LRN POCs for Registration:** For questions and/or concerns regarding the Site Visit, please contact Connor Struckmeyer at [connor.a.struckmeyer@usace.army.mil](mailto:connor.a.struckmeyer@usace.army.mil). Please submit all site visit request forms to Connor Struckmeyer at [connor.a.struckmeyer@usace.army.mil](mailto:connor.a.struckmeyer@usace.army.mil) and JW Purcell at [james.w.purcell@usace.army.mil](mailto:james.w.purcell@usace.army.mil). **When you send your site visit request form, please put “W912P523R0001 - (Foreign National or U.S. Citizen) Request Form-(Your Company Name)” in the subject line of the email. Please edit the information in parenthesis to match the request form you submit and your company name.**

**1.11 POC for Communication:** Any communications regarding this procurement must be made in writing to the Nashville Contracting Branch, Attn: Connor Struckmeyer at [connor.a.struckmeyer@usace.army.mil](mailto:connor.a.struckmeyer@usace.army.mil). Inquiries must identify the solicitation number, the requestor’s company name, address, email address, telephone, and facsimile numbers to include area code.

Phone calls or requests to arrange meetings at the Nashville District during the solicitation period to discuss project requirements or company’s capabilities are highly discouraged and will not be scheduled.

#### **1.12 Prospective Offerors’ Questions and Requests for Information**

Prospective Offerors should submit questions concerning this Solicitation through the Bidder Inquiry function in ProjNet at <http://www.ProjNet.org/ProjNet>. This is USACE’s standard platform for receiving and responding to questions and requests for information. As noted below, Offerors shall not submit their proposals via ProjNet. Offerors shall submit their proposals in accordance with the provisions stated in the Solicitation.

To submit and review inquiry items, Offerors will need to be a current registered user or self-register into system. Instructions to gain access are listed below.

**Project:** (Wolf Creek Dam) Liquid Oxygen Cryogenic Facility Construction

**Solicitation Number:** W912P523R0001

**The Bidder Inquiry Key:** ZPWGHE-NITR2N

#### **Instructions for ProjNet Bidder Inquiry Access:**

1. From the ProjNet home page linked above, click on **Quick Add** on the upper right side of the screen.
2. Identify the Agency. This should be marked as USACE.
3. Key. Enter the **Bidder Inquiry Key** listed above.
4. Email. Enter the email address you would like to use for communication.
5. Select Continue. A page will then open stating a user account was not found and will ask you to create one using the provided form.
6. Enter your First Name, Last Name, Company, City, State, Phone, Email, Secret Question, Secret Answer, and Time Zone. Make sure to remember your Secret Question and Answer as they will be used from this point on to access the ProjNet system.
7. Select Add User. Once this is completed you are now registered within ProjNet and are currently logged into the system.

#### **Instructions for Future ProjNet Bidder Inquiry Access:**

1. For future access to ProjNet, you will not be emailed any type of password. You will utilize your Secret Question and Secret Answer to log in.
2. From the ProjNet home page linked above, click on Quick Add on the upper right side of the screen.
3. Identify the Agency. This should be marked as USACE.

4. Key. Enter the Bidder Inquiry Key listed above.
5. Email. Enter the email address you used to register previously in ProjNet.
6. Select Continue. A page will then open asking you to enter the answer to your Secret Question.
7. Enter your Secret Answer and click Login. Once this is completed you are now logged into the system.

From this page you may view all inquiries or add an inquiry. Offerors will receive an acknowledgement of their question via email, followed by an answer to their question after it has been processed by LRN's technical team. Offerors are requested to review the specification in its entirety and to review the "Bidder Inquiry System" for answers to questions prior to submission of a new inquiry. The call center operates weekdays from 8AM to 5PM U.S. Central Time Zone (Chicago). The telephone number for the Call Center is 800-428-HELP.

#### NOTES:

1. Offerors **shall not** submit their proposals via ProjNet, but in accordance with the provisions stated in the solicitation. Any questions regarding acceptable means of submitting offers shall be made directly to the Contract Specialist identified in the solicitation.
2. Government responses to questions from prospective Offerors concerning the Solicitation that are submitted to ProjNet in accordance with the procedures above are not binding on the Government unless an amendment is issued on Standard Form 30. In the case of any conflicts, the Solicitation governs. Any changes or revisions to the Solicitation will be made by formal amendment. Government responses will be limited to: (a) Notice that an amendment will be issued; (b) Reference to an existing requirement contained in the Solicitation; or (c) Notice that a response is not necessary.
3. The ability for prospective Offerors to enter questions in reference to the Solicitation will be disabled **ten (10) calendar days** prior to the closing date stated in the Solicitation. No Government responses will be entered into the ProjNet system **within five (5) calendar days** prior to the closing date stated in the Solicitation.

**1.13 Amendments Prior to Date Submission for Request for Proposals (RFP).** The right is reserved as the interest of the Government may require, to revise or amend the specifications or drawings or both prior to the date set for submission of proposals. Such revisions and amendments, if any will be announced by an amendment or amendments to this RFP. If the revisions and amendments are of a nature which requires material changes in quantities or prices proposed or both, the date set for receipt of proposals may be postponed by such number of days as in the opinion of the issuing Contracting Officer will enable Offerors to revise their proposal. In such cases, the amendment will include an announcement of the new date for receipt of proposal.

#### **1.14 Notice to Offeror: Use of Class I Ozone-Depleting Substances**

a. In accordance with Section 326 of P.L. 102-484, the Government is prohibited from awarding any contract which includes a specification or standard that requires the use of a Class I ozone depleting substance (ODS) identified in Section 601(a) of the Clean Air Act, (42 U.S.C 767a(a)), or that can be met only through the use of such a substance unless such use has been approved, on an individual basis, by a senior acquisitions official who determines that there is no suitable substitute available.

b. To comply with this statute, the Government has conducted a best effort screening of the specifications and standards associated with this acquisition to determine whether they contain any ODS requirements. **This requirement has no relationship to ODSs.**

c. If the Offeror possesses any special knowledge about any other ODSs required directly or indirectly at any level of contract performance, the U.S. Army would appreciate if such information were surfaced to the Contracting Officer for appropriate action. To preclude delay to the procurement, the Offeror should provide any information as soon as possible after release of this RFP and prior to the submission of proposals to the extent practicable. It should be understood that there is no obligation on the Offeror to comply with the request and that no compensation can be provided for doing so.

## 2.0 BONDS AND INSURANCE

**2.1 BID GUARANTEE.** All Offerors shall furnish a bid guarantee. In accordance with FAR 52.228-1, Bid Guarantee, the bidder (or Offeror for this solicitation) shall furnish a bid guarantee in the form of a firm commitment, e.g., bid bond (use Standard Form 24) 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 bid guarantee amount shall be at least 20 percent of the bid price but shall not exceed \$3,000,000.00. If using a Bid Bond, it must be submitted on SF 24. The SF 24 can be found at the GSA Forms Library at <https://www.gsa.gov/forms>.

**2.2 INSURANCE.** Contractor shall carry Liability and Insurance. See FAR 52.228-5, Insurance – Liability to Third Persons.

**2.3** The successful Offeror will, within the time established in the proposal, furnish performance and payment bonds in the amounts indicated in the RFP or the specifications.

a. **PERFORMANCE BONDS (Standard Form (SF) 25).** Pursuant to FAR 52.228-15, Performance and Payment Bonds—Construction (DEVIATION 2020-O0016), the penal amount of the performance bond shall equal one hundred percent (100%) of the contract price. Bonds shall be received on a SF 25A within ten (10) calendar days after receipt of contract award. The SF 25A can be found at the GSA Forms Library at <https://www.gsa.gov/forms>.

b. **PAYMENT BONDS (SF 25A).** Pursuant to FAR 52.228-15, Performance and Payment Bonds—Construction (DEVIATION 2020-O0016), the penal amount of the payment bond shall equal one hundred percent (100%) of the contract price. Bonds shall be received on a SF 25A within ten (10) calendar days after receipt of contract award. The SF 25A can be found at the GSA Forms Library at <https://www.gsa.gov/forms>.

## 3.0 SYSTEM FOR AWARD MANAGEMENT (SAM)

In accordance with FAR 52.204-7, System for Award Management, registration is required in the System for Award Management (SAM) database located at [www.sam.gov](http://www.sam.gov). More specifically, "An Offeror is required to be registered in SAM when submitting an offer or quotation, and shall continue to be registered until time of award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation." (See FAR 52.204-7(b)(1)).

For SAM Customer Service, contact:

Federal Service Desk

URL: [www.fsd.gov](http://www.fsd.gov)

Hours: 8am – 8pm (Eastern Time)

U.S. Calls: 866-606-8220 International Calls: 334-206-7828

DSN: 866-606-8220

**IMPORTANT NOTICE:** Effective June 29, 2018 vendors creating or updating their registration can have their registration activated prior to the approval of the required notarized letter. However, the signed copy of the notarized letter must be sent to the GSA Federal Service Desk (FSD) within 30 calendar days of activation, or the vendor risks no longer being active in SAM.

Vendors can check whether an account is active by performing a query by their CAGE or Unique Entity Identifier (transitioned from DUNS Number).

The registration process may now take several weeks, so vendors are highly encouraged to begin registering as soon as possible to avoid any possible delays in future contract awards. Remember, there is no cost to use SAM.

To find out additional information about the changes of the SAM registration process, contractors should visit the Frequently Asked Questions (FAQ) link located at the top of the SAM homepage ([www.sam.gov](http://www.sam.gov)).

#### 4.0 SMALL BUSINESS PARTICIPATION PLAN (SBPP)

All Offerors (both large and small businesses) are required to complete a Small Business Participation Plan (SBPP) in accordance with DFARS 215.304. Reference section 00 21 00 of this Solicitation for additional submission requirements.

#### 5.0 SUBCONTRACTING PLAN

The successful Offeror (if a large business) shall provide a Small Business Subcontracting Plan that contains all of the elements required by FAR 52.219-9 and DFARS 252.219-7003. The Subcontracting Plan is not a requirement for evaluation in source selection but shall be provided upon request before contract award (if the successful Offeror is a large business). The approved Small Business Subcontracting Plan will be incorporated into any resultant contract(s).

#### 6.0 WHERE TO SUBMIT & SUBMITTAL DEADLINE

Offerors shall submit their proposals no later than the time and date specified in Block 13 of SF 1442 of this solicitation as follows:

The Offeror's proposal shall be submitted electronically, via Procurement Integrated Enterprise Environment (PIEE), as described below. The RFP will provide proposal submission instructions and receipt date for proposal submittal. The Offeror's proposal shall not contain classified data. The use of hyperlinks in proposals is prohibited.

The Offeror's proposal must be received by the Government by the date/time specified in the Solicitation.

**6.1 PROPOSAL SUBMISSION:** ALL SUBMISSIONS TO THIS RFP SHALL BE SUBMITTED ELECTRONICALLY THROUGH PIEE. No paper copies, CD-ROMs or facsimile submissions will be accepted. Electronic Proposal Submissions is required through the Army's Electronic File Sharing Service in PIEE (<https://piee.eb.mil/>). The PIEE Application is used to send large files to individuals that would normally be too large to send via email. Information regarding how to set up a vendor registration is included in this link: <https://pieetraining.eb.mil/wbt/xhtml/wbt/portal/overview/vendorRegister.xhtml>. On this page, click on the "Vendor User Registration" Doc and it will take you through the process of registering as a vendor.

If you plan on submitting a proposal, be sure to select "SOL-Solicitation" in the drop-down list and choose the "Proposal Manager" role to be given the proper permissions.

Further training is available at the following links:

<https://pieetraining.eb.mil/wbt/xhtml/wbt/sol/index.xhtml> - This link shows information regarding the Solicitation application in PIEE and the different roles available.

<https://pieetraining.eb.mil/wbt/xhtml/wbt/sol/solicitation/proposals.xhtml> - This link is for Offerors regarding the Proposal Manager function and instruction on submitting a Proposal.

a. File Size Limitations: Offerors are advised to follow the PIEE instructions for uploading files. PIEE supports delivery of up to 1.9GB per file, with no limit on the number of files, as well as multiple file formats. If needed, Offerors are advised to break the files down into smaller sections in order to upload them into the system. In such cases, please divide the sections as logically as possible and be sure to clearly name the files as specified below.

b. File Naming Convention: To ensure your submission is received and processed appropriately, it is important that interested parties CAREFULLY ensure their electronic files adhere to the following naming convention:

- W912P523R0001 – (FIRM NAME) – VOLUME I
- W912P523R0001 – (FIRM NAME) – VOLUME II

Each file name shall begin with the Solicitation number followed by the firm's name, and a brief file description. Please see the examples above.

c. File Organization: Although hard copies are not accepted, each file shall be clearly indexed, and logically assembled. Font size shall be the size listed in the submission requirements for each factor. Pages shall be letter sized (larger page sizes (such as 11x17 fold-outs, etc.) will be counted as two pages. Proposals shall be in a narrative format, organized and titled so that each section of the proposal follows the order and format of the factors. Information presented should be organized so as to pertain to only the evaluation factor in the section that the information is presented. Information pertaining to more than one evaluation factor should be repeated in each section for each factor.

d. Upload Completion & Deadline: Interested parties shall submit responses no later than the date specified on the Solicitation document. The time and date of proposal receipt will be the upload completion/delivery time and date recorded within the PIEE site. Do not assume that electronic submission will occur instantaneously. Large files (e.g. 10MB or more) will take some time to upload. Offerors should time their upload effort with prudence by not waiting until the last few minutes—this will allow for unexpected delays in the transmittal process. Offerors are encouraged to keep a copy of the upload confirmation for their record. Submissions after the deadline will be considered late and will be processed in accordance with FAR 15.208.

e. Electronic Files: Files shall be in their native format (i.e. doc, xls, ppt, etc.), or if in pdf format, shall be in searchable text. Text and graphics portfolios of the electronic copies shall be in a format readable by Microsoft Office or Adobe applications. Data submitted in a spreadsheet format shall be readable by MS Excel (all cells and formulas should be unlocked).

Any information, presented in a proposal that the Offeror wants safeguarded from disclosure to other parties must be identified and labeled in accordance with the requirements of FAR Provision 52.215-1 Instructions to Offerors – Competitive Acquisition, subparagraph (e), which is incorporated by reference in the RFP. The Government will endeavor to honor the restrictions against release requested by Offerors, to the extent permitted under United States law and regulations.

**PROCEDURES FOR SUBMITTAL OF OFFERS  
AND  
PROPOSAL EVALUATION APPROACH**

**1.0 Submittal of Offers**

1.1 Offerors submitting proposals for this project should limit submissions to data essential for evaluation of proposals so that a minimum of time and monies will have been expended in preparing information required herein. However, in order to be effectively and equitably be evaluated, the proposals must include information sufficiently detailed to clearly describe the Offeror's past performance, scheduling approach, safety management, economy and efficiency, and small business participation plan necessary for successful completion of the project. The requirements stated in this RFP are minimums.

1.2 Offerors shall submit their proposals to the Government no later than the time and date specified in Block 13 of Standard Form 1442 of this solicitation. Detailed submission instructions are listed above in section Instructions to Offerors, paragraph 6.0 Where to Submit and Submittal Deadline and subparagraph 6.1 Proposal Submission.

1.3 Offerors are required to submit a proposal made up of Past Performance, Scheduling Approach, Safety Management, Economy and Efficiency, Small Business Participation Plan, Price, and Pro Forma. All proposal materials shall be submitted via Procurement Integrated Enterprise Environment (PIEE) with a bookmarked table of contents and/or a standard electronic Tab Index. The sections should parallel the submission requirements identified below. Volume I shall be submitted in Portable Document Format (PDF) and shall be either tabbed or bookmarked to reflect the division of Factors in accordance with paragraph 3. Volume II shall be submitted as a separate PDF file and shall also be tabbed or bookmarked.

**2.0 Proposal Evaluation Process**

2.1 A Source Selection Evaluation Board (SSEB) comprised of representatives of USACE will evaluate the proposals. Offerors are advised that the technical evaluation and rating of proposals will be conducted in strict confidence. Technical proposals will be reviewed and rated without knowledge of the price offered. The number and identities of Offerors are not revealed to anyone who is not involved in the evaluation and award process or to other Offerors. Proposals will be evaluated based on the factors described herein, and the basis of award is the Best Value Tradeoff (BVTO) Process.

2.2 The evaluation process essentially consists of three (3) parts: (1) proposal compliance review and responsibility determination; (2) past performance, technical, and price evaluations; and (3) best value decision.

2.2.1 Proposal Compliance Review: This is an initial review to ensure that all required forms and certifications (if applicable) are complete and that a past performance, technical, and price proposal were received.

2.2.2 Past Performance and Technical Evaluations: The SSEB will evaluate and rate the proposals against the RFP requirements. Some factors will be rated using an adjectival-based system. Others will be rated on an "acceptable/unacceptable" basis. Past Performance will be rated based on recency/relevancy and confidence.

2.2.3 Price Evaluation: Cost Engineering, Contracting Officer, and the Source Selection Authority (SSA) will evaluate price proposals independent of the technical evaluation. The SSEB will not have access to price information until completion of the technical evaluation.

2.2.4 Best Value Decision: After all, above evaluations are complete the SSA performs this assessment by comparing the strengths, weaknesses, and the cost/price of the competing proposals to determine which proposal represents the best value to the Government.

**3.0 Proposal Information and Related Evaluation Factors**

3.1 Proposals will be evaluated in accordance with the factors listed below in relative order of importance.

Note: To be eligible for award, Factor I – Past Performance, must be rated at least “Neutral Confidence,” and Factors II-VI, must be rated at least “Acceptable.”

All non-cost/price factors, when combined, are **approximately equal** to cost or price. Offerors are reminded to include their best past performance, technical and price terms in their initial offer and not to automatically assume that they will have an opportunity to participate in discussions or be asked to submit a revised offer. The Government may make award of a conforming proposal without discussions, if deemed to be within the best interest of the Government.

### 3.2 Volume I – Technical Proposal

3.2.1 Volume I – Factor I – Past Performance	1 <sup>st</sup>
3.2.2 Volume I – Factor II – Technical Approach	2 <sup>nd</sup>
3.2.5 Volume I – Factor III – Small Business Participation Plan	3 <sup>rd</sup>

### 3.3 Volume II – Price and Pro Forma Information

<b>Tab A</b> – Proposal Data Sheet	Not Rated
<b>Tab B</b> – Standard Form (SF) 1442, and Acknowledged Amendments (if any)	Not Rated
<b>Tab C</b> – Joint Venture (JV) Agreement (if applicable)	Not Rated
<b>Tab D</b> – Section 00100 Price Proposal	Not Rated
<b>Tab E</b> – Section 00 45 00 – Representation and Certifications (unless available on <a href="http://www.SAM.gov">www.SAM.gov</a> )	Not Rated
<b>Tab F</b> – Proof of Financial Capability	Not Rated

Note: Offeror is responsible for ensuring the documents submitted are consistent throughout the proposal.

### 3.4 Ratings

Evaluators will apply the adjectival rating for the definition that most closely matches the evaluation.

Past Performance Relevancy Ratings	
Rating	Description
Very Relevant	Present/past performance effort involved essentially the same scope and magnitude of effort and complexities this solicitation requires.
Relevant	Present/past performance effort involved similar scope and magnitude of effort and complexities this solicitation requires.
Somewhat Relevant	Present/past performance effort involved some of the scope and magnitude of effort and complexities this solicitation requires.
Not Relevant	Present/past performance effort involved little or none of the scope and magnitude of effort and complexities this solicitation requires.

<b>Past Performance Confidence Assessments</b>	
<b>Rating</b>	<b>Description</b>
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.
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.
Neutral Confidence	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.
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.
No Confidence	Based on the Offeror's recent/relevant performance record, the Government has no expectation that the Offeror will successfully perform the required effort.

<b>Scheduling Approach, Safety Management and Economy and Efficiency Combined Technical/Risk Ratings</b>	
<b>Adjectival Rating</b>	<b>Description</b>
Outstanding	Proposal indicates an exceptional approach and understanding of the requirements and contains multiple strengths, and risk of unsuccessful performance is low.
Good	Proposal indicates a thorough approach and understanding of the requirements and contains at least one strength, and risk of unsuccessful performance is low to moderate.
Acceptable	Proposal meets requirements and indicates an adequate approach and understanding of the requirements, and risk of unsuccessful performance is no worse than moderate.
Marginal	Proposal has not demonstrated an adequate approach and understanding of the requirements, and/or risk of unsuccessful performance is high.
Unacceptable	Proposal does not meet the requirements of the solicitation, and thus, contains one or more deficiencies, and/or risk of unsuccessful performance is unacceptable. Proposal is unawardable.

The following Definition of Risk chart defines the level of risk listed in the above chart: Combined Technical/Risk Ratings:

<b>Definition of Risk Applied to Combined Technical/Risk Ratings</b>	
<b>Risk Level</b>	<b>Description</b>
Low	Proposal may contain weakness(es) which have little potential to cause disruption of schedule, increased cost, or degradation of performance. Normal contractor effort and normal Government monitoring will likely be able to overcome any difficulties.
Moderate	Proposal contains a significant weakness or combination of weaknesses which may potentially cause disruption of schedule, increased cost or



	degradation of performance. Special contractor emphasis and close Government monitoring will likely be able to overcome difficulties.
High	Proposal contains a significant weakness or combination of weaknesses which is likely to cause significant disruption of schedule, increased cost or degradation of performance. Is unlikely to overcome any difficulties, even with special contractor emphasis and close Government monitoring.
Unacceptable	Proposal contains a material failure or a combination of significant weaknesses that increase the risk of unsuccessful performance to an unacceptable level.

Small Business Participation Plan Ratings	
Rating	Description
Acceptable	Proposal indicates an adequate approach and understanding of small business objectives.
Unacceptable	Proposal does not meet small business objectives.

### 3.5 Definitions

a. *Adverse Past Performance* is past performance information that supports a less than satisfactory rating on any evaluation. Adverse past performance that must be addressed with Offerors includes unfavorable comments received from sources such as those received from respondents from past performance questionnaires or interviews that have not been finalized within a formal rating system. A best practice can be to discuss adverse past performance which caused a rating to be lowered to Satisfactory Confidence.

b. *Best Value* means the expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirement. See FAR 2.101.

c. *Clarifications* are limited exchanges between the Government and Offerors that may occur when award without discussions is contemplated. See FAR 15.306(a)(1).

d. *Communications* are exchanges, between the Government and Offerors, after receipt of proposals, leading to establishment of the competitive range. See FAR 15.306(b).

e. *Competitive Range* – See FAR 15.306(c)

f. *Deficiency* is a material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level. See FAR 15.001.

g. *Discussions* are exchanges (i.e., negotiations) in a competitive environment that are undertaken with the intent of allowing the Offeror to revise its proposal. Discussions take place after establishment of the competitive range. See FAR 15.306(d).

h. *Evaluation Notice (EN)* is the Procuring Contracting Officer's (PCO) written notification to the Offeror for purposes of clarifications, communications, or discussions.

i. *Performance Confidence Assessment* is an evaluation of the likelihood (or Government's confidence) that the Offeror will successfully perform the solicitation's requirements; the evaluation is based upon past performance information.

j. *Recency*, as it pertains to Past Performance information, is a measure of the time that has elapsed since the past performance reference occurred. Recency is generally expressed as a time period during which past performance references are considered relevant.

k. *Relevancy*, as it pertains to Past Performance information, is a measure of the extent of similarity between the service/support effort, complexity, dollar value, contract type, and subcontract/teaming or other comparable attributes of past performance examples and the source solicitation requirements; and a measure of the likelihood that the past performance is an indicator of future performance.

l. *Risk*, as it pertains to source selection, is the potential for unsuccessful contract performance. The consideration of risk assesses the degree to which an Offeror's proposed approach to achieving the technical factor may involve risk of disruption of schedule, degradation of performance, the need for increased Government oversight, and the likelihood of unsuccessful contract performance.

m. *Significant Weakness* in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance. See FAR 15.001.

n. *Source Selection Authority (SSA)* is the official designated to make the source selection decision.

o. *Source Selection Decision Document (SSDD)* is the document that reflects the SSA's independent, integrated, comparative assessment and decision.

p. *Source Selection Evaluation Board (SSEB)* is a group of individuals representing the various functional disciplines relevant to the acquisition that is responsible for evaluating proposals against the solicitation criteria.

q. *Strength* is an aspect of an Offerors' proposal that has merit or exceeds specified performance or capability requirements in a way that will be advantageous to the Government during contract performance.

r. *Uncertainty* any aspect of a non-cost/price factor proposal for which the intent of the Offeror is unclear (e.g. more than one way to interpret the offer or inconsistencies in the proposal indicating that there may have been an error, omission or mistake).

s. *Weakness* means a flaw in the proposal that increases the risk of unsuccessful contract performance. See FAR 15.001.

#### **4.0 Volume I - Factor I (Past Performance) - Performance Assessments**

Due to the type of work associated with this project, the Government anticipates the use of key-subcontractors. As a result, if the Prime Contractor (Offeror identified in Block 14 of the SF1442) intends to subcontract Fabrication, Erection, or Installation of the projects listed below as similar in scope, the Offeror must submit evidence of a firm commitment (i.e., signed agreement or letter of commitment) from the subcontractor to perform if the Offeror is awarded the contract. The submission requirements and evaluation criteria utilized for the prime contractor will also be utilized by the SSEB for evaluation of these key-subcontractors.

Any key-subcontractors identified in the proposal must be used on the project. No substitutions will be accepted, unless otherwise agreed to by the Contracting Officer.

#### **4.1 Submission Requirements:**

Each Offeror shall provide descriptions of no more than three (3) past or current construction projects completed, or substantially complete (75% or more), within the last twenty (20) years (from the solicitation issuance date), that are similar to this project in scope and magnitude. If any firm has multiple functions or divisions, limit the project examples to those performed by the division, unit or team member submitting the offer.

Detailed project information shall be provided using the Project Detail Sheet format described at the end of this section. Ensure the proposal clearly describes which work the Offeror and the subcontractors performed.

In order to demonstrate relevant past performance, Offerors must submit detailed information for projects that are similar in scope and magnitude as further defined below.

**NOTE:** Do not submit more than three (3) projects. Any projects submitted that exceed the three (3) project limit will not be evaluated.

**Similar in scope:** In order to be considered similar in scope, the submitted projects must include at least three (3) of the A, B, C, or D criteria below. The Offeror's combined portfolio must include an example of each criterion listed below. Projects that combine multiple scope similarity elements below may be viewed more favorably by the SSEB:

- a. Experience with liquid oxygen tank design and installation;
- b. Experience with facility design and construction of mechanical and electrical components in compliance with liquid oxygen industry standards including but not limited to NFPA, ASME, ASTM, CGA;
- c. Experience with site grading and road construction;
- d. Experience with foundation preparation and construction to support heavy industrial equipment loads in excess of 100,000 pounds.

**Similar in magnitude:** Each project submitted shall be valued greater than \$2 million to be considered similar in magnitude, yet at least one (1) project shall be valued greater than \$3.5 million.

The Past Performance Questionnaire (PPQ) included in the solicitation is provided for the Offeror or its team members to submit to the client for each project the Offeror includes in its proposal for Factor I, Past Performance. Ensure correct phone numbers and email addresses are provided for the client point of contact. Completed PPQs should be submitted with your proposal. If the Offeror is unable to obtain a completed PPQ from a client for a project before proposal closing date, the Offeror should complete and submit with the proposal the first page of the PPQ, which will provide contract and client information for the respective project(s).

Offerors should follow-up with clients/references to ensure timely submittal of questionnaires. If the Offeror's client requests, questionnaires may be submitted directly to the Government's point of contact, Connor Struckmeyer at [connor.a.struckmeyer@usace.army.mil](mailto:connor.a.struckmeyer@usace.army.mil) prior to the proposal closing date. Offerors shall not incorporate by reference into their proposal PPQs previously submitted for other RFPs. If the PPQ is for an ongoing (incomplete) project, the PPQ must be completed after the solicitation issue date. Submission of a PPQ does not preclude the Government from using previously submitted PPQ information in the past performance evaluation. Offerors shall submit CPARS in lieu of a PPQ if applicable.

In addition to the above, the Government is required to use CPARS as a source for past performance, when available. If not available and when necessary, the Government reserves the right to check any or all cited references to verify supplied information and to assess owner and engineer satisfaction in regards to qualifications and past performance. Other sources may include, but are not limited to, inquiries of owner representative(s), Federal Awardee Performance and Integrity Information System (FAPIIS), Electronic Subcontract Reporting System (eSRS), and any other known sources not provided by the Offeror.

While the Government may elect to consider data from other sources, the burden of providing detailed, current, accurate and complete past performance information rests with the Offeror. The Government may not choose to contact all of the identified references/points of contact. This assessment is based on the Offeror's record of relevant and recent past performance information that pertains to the requirements outlined in the Solicitation.

**NOTE:** For purposes of evaluating past performance, the Prime Contractor is defined as the contractor identified in Block 14 of the Standard Form 1442. If more than one (1) contractor is listed in Block 14, then a signed Joint Venture Agreement must be submitted with the proposal and the Joint Venture (JV) shall be registered as such in the System for Award Management (SAM). However, each party of the JV must submit their own Unique Entity Identifier (UEI SAM – issued by SAM.gov) with the JV proposal. The past performance of each JV partner will be evaluated based on each partner's role in cited past work and in the proposed JV role for this project.

**NOTE:** The Offeror's Past Performance Proposal, shall be 8-1/2" by 11". Charts, tables, drawings, and illustrations should be limited to the electronic PDF equivalent of 11" by 17". Pages should have a one-inch margin on all sides. Text should be 12- point, Times New Roman. (Captions for drawings and tables may be 10-point).

#### **4.2 Evaluation Criteria:**

The SSEB will evaluate the recency, relevancy and quality of the Offeror's experience as described in the proposal and assign a single confidence rating based on the degree of successful performance of all recent and relevant projects identified. Well-documented performance and completion or significant completion (75% or more complete) of project within the past twenty (20) years (from issuance of the solicitation), that are similar in scope and magnitude for this project will be rated more relevant.

The SSEB will assign a confidence rating to each Offeror based on the degree of successful performance of all recent and relevant projects identified in the proposal in response to paragraph 4.1, Past Performance Submission Requirements discussed above.

The SSEB will evaluate recent and relevant past performance to assess the degree of performance risk involved in accepting each Offeror's proposal. If the firm is divided into severable segments (e.g., division, group, or unit) the Government will evaluate only the past performance of those segments of the firm(s) that will actually perform the work.

Additionally, submitted past performance projects that are "similar in scope" and "similar in magnitude" and demonstrate experience with one (1) or all of the following, may receive additional consideration:

- a. Projects demonstrating experience with the U.S. Army Corps of Engineers (USACE);
- b. Projects demonstrating experience with the Tennessee Valley Authority (TVA);
- c. Projects demonstrating experience with all four (4) of the above-referenced key scope areas in a single project.

#### **5.0 Volume I - Factor II (Technical Approach)**

##### **5.1 Submission Requirements:**

The Offeror shall submit a schedule and a narrative, not to exceed twenty (20) pages, the schedule not counting towards the 20-page limit, describing the overall approach to the schedule and technical aspects of the contract work. (Sketches, drawings, and/or figures will not count towards the page limit). At a minimum, the narrative shall include the following:

- Describe how the cryogenic facility foundation will be constructed to achieve the required uniform settlement including monitoring of the foundation settlement;
- Describe your approach to the required site work including excavation, grading, demolition, and road construction;
- Describe your approach to installing liquid oxygen tanks, vaporizers, mechanical piping, and electrical components to ensure compliance with specifications;
- Describe your approach to designing the performance-based portions of the Plans and Specifications;
- Describe how your management team will be structured and what processes will be established to ensure the required Contractor's Quality Control Program and Project Specific Safety Program are effectively integrated with production work;
- Provide your Experience Modifier Rate (EMR) for the previous three (3) calendar years.

The schedule shall consist of a Gantt chart on a single American National Standard Institute (ANSI) D sheet. Font size shall be a minimum of 8 and legible. The proposed schedule shall include all major milestones as listed below and must provide a logical, reasonable, and comprehensive plan on how to execute the project within that schedule.

The layout of the Master Schedule shall include the following columns on the left side of the Gantt Chart:

- 1) Activity Name
- 2) Activity (Original) Duration
- 3) Total Float

It is the Offeror's responsibility to identify the sequencing of the below listed construction activities. Should the Offeror intend to use a critical path methodology; the critical path shall be clearly indicated alongside the non-critical activities

The schedule shall be task oriented, indicating the number of calendar days after initial Notice to Proceed (NTP) that each milestone will be achieved. The proposed project schedule shall reflect the proposed contract duration, and at a minimum, the following construction activities and milestones (dates below are provided for planning purposes and do not necessary reflect contractual requirements):

Activities are not listed in any particular order, but all below mentioned tasks must be reflected in the schedule.

- Contract Award Date (01 December 2022)
- Notice to Proceed (09 December 2022)
- Pre-Construction Submittals
- Mobilization
- Site Demolition including trees, existing fence, parking area, and septic tank
- Cryogenic facility foundation construction
- Access road modifications and construction
- Installation of electrical monitoring controls
- Fabrication, delivery and installation of the liquid oxygen tanks and vaporizers
- Completion and testing of the cryogenic facility
- Demobilization

**NOTE:** The Offeror's entire Scheduling Proposal shall be limited to no more than the electronic PDF equivalent of twenty (20) printed pages, 8-1/2" by 11," double sided. Drawings, charts, tables, and illustrations should be limited to the electronic PDF equivalent of 11" by 17" and shall be counted toward the twenty (20) page limit. Pages should have a one-inch margin on all sides. Text should be 12-point, Times New Roman. (Captions for tables may be 10-point.) Pages exceeding the page limit will be removed and not evaluated.

## **5.2 Evaluation Criteria:**

The narrative and schedule must be realistic and clearly demonstrate or describe:

- an understanding of the contract requirements;
- reasonable and logical relationships between activities;
- feasible mitigation actions for any risks identified by the Offeror regarding concrete placement rates, adverse weather conditions, installation of complex steel fabrication structures to exacting tolerances, and/or working in close proximity with other contractor personnel
- the ability to work in close coordination with adjacent contractors and Government personnel; and
- the Offeror's capability to schedule the complete project within the proposed contract duration.

A schedule and associated narrative that minimizes the overall duration (e.g., less than Government's indicated schedule) while maintaining realism of the schedule may be considered a strength. However, if accepted, the Offeror's shorter schedule will be incorporated into the contract as the new period of performance.

A schedule and narrative that identifies and describes risk mitigation strategies (addressing risks identified by the Offeror) that, if successfully implement may reduce the potential impact to the proposed schedule may be considered a strength.

An EMR of greater than one (1.0) in any calendar year may be considered a weakness. An EMR rate of  $\leq$  (less than or equal) to one (1.0) in the last three (3) respective calendar years may be considered a strength.

## **6.0 Volume I - Factor III (Small Business Participation Plan)**

### **6.1 Submission Requirements:**

All Offerors (**both large and small businesses**) are required to complete a Small Business Participation Plan (SBPP) in accordance with Defense Federal Acquisition Supplement (DFARS) 215.304. The SBPP will be incorporated into any resultant prime contract as the basis for a formal Small Business Subcontracting Plan the successful Offeror (if a large business) will be required to submit upon contract award. Offerors shall propose the level of participation of small businesses (as a small business prime, joint venture, teaming arrangement, and/or small business subcontractors) in the performance of the acquisition relative to the objectives/goals set forth in the evaluation of this area.

a. Prime Contractor type of business (check all that apply):

- ☐ Large
- ☐ Small (also check type of small business)
- ☐ Small Non-Disadvantaged Business
- ☐ Small Disadvantaged Business
- ☐ Woman-Owned Small Business
- ☐ HUBZone Small Business
- ☐ Veteran Owned Small Business
- ☐ Service Disabled, Veteran Owned Small Business

b. Percentage of your participation as a Prime Contractor: \_\_\_\_\_%

c. Total Contract value and percentage of Total Contract value to be subcontracted of subcontracts planned for:

	Total Contract Value to be Subcontracted by Percentage	Total Contract Value to be Subcontracted
Large	%	\$
Total Small	%	\$
Small Non-Disadvantaged	%	\$
Small Disadvantaged	%	\$
Small Woman Owned	%	\$
Small HUB Zone	%	\$
Small Veteran Owned	%	\$
Small Service-Disabled Veteran Owned	%	\$

Each percentage above shall be accompanied by detailed supporting documentation regarding individual commitments. Please ensure the percentage of contract value corresponds to the total contract value to be subcontracted.

NOTE: The sum of the percentages of Small Non-Disadvantaged and Small Disadvantaged should equal the entries for the Total Small; however, the sum of all of the percentages need not equal 100% since the prime is not included and individual subcontractors may be counted towards more than one category.

d. List principal supplies/services (be specific) to be subcontracted to:

	Company Name	Type of Service/Supply
Large		
Small Non-Disadvantaged		
Small Disadvantaged		
Small Women-Owned		
Small HUBZone		
Small Veteran Owned		
Small Service-Disabled Owned		

e. Prior Performance Information: Provide any information substantiating the Offeror's track record of utilizing small business on past contracts.

f. For Large and Small Businesses provide descriptive information for all small business categories. Any information concerning long-term relationships with Small Business subcontractors, such as mentor-protégé relationships, should be provided.

g. Extent of Commitment: Provide documentation regarding enforceable to utilize any small business category as defined in FAR Part 19 as subcontractors.

**NOTE:** Small Business Participation Plan Proposal shall be limited to no more than the electronic PDF equivalent of twenty-five (25) printed pages, 8-1/2" by 11", printed double sided. Charts, tables, and illustrations should be limited to 11" by 17" and shall be counted toward the twenty-five (25) page limit. Pages should have a one-inch margin on all sides. Text should be 12- point, Times New Roman. (Captions for tables may be 10-point.) Pages exceeding the page limit will be removed and not evaluated.

## **6.2 Evaluation Criteria:**

The Small Business Participation Proposal will be evaluated on the Offeror's best efforts and the level of small business commitment that is being demonstrated for the proposed acquisition and the prior level of commitment to utilizing small businesses in performance of prior contracts. The SB Participation Proposal must meet the minimum Total Small Business Participation goal of 15% of the total contract value (through collective small business participation from any type of small business or sub-category small business). Offerors unable to meet the minimum overall small business goal of 15% shall provide an explanation of why this target cannot be met with their proposal.

## **7.0 Volume II – Price and Pro-forma Information (Submit as a separate file from Volume I)**

### **7.1 Tab A – Proposal Data Sheet (Form Enclosed)**

#### **7.1.1 Submission Requirements:**

The Offeror shall submit a completed Proposal Data Sheet in the format provided at the end of this section.

### **7.2 Tab B – SF 1442 and Acknowledged Amendments (if applicable)**

#### **7.2.1 Submission Requirements:**

The Offeror shall submit the SF1442. If any amendments are issued against this Solicitation, the Offeror shall include its acknowledgement of those Amendments by returning the signed amendments with its proposal and/or filling in Block 14 of the SF1442 and submitting the signed document with its proposal. The SF1442, block numbers 16, 17, and 18 must be completed by an authorized person from the company.

### **7.3 Tab C – Joint Venture Agreement (if applicable)**

#### **7.3.1 Submission Requirements:**

If the company is a joint venture (JV), then all members of the JV must sign, including all amendments. Also, the Offeror shall submit a copy of the signed JV agreement.

### **7.4 Tab D – Section 00 10 00 – Price Proposal**

#### **7.4.1 Submission Requirements:**

Section 00 10 00 shall be completed for the Price Proposal. The Offeror shall enter a price for each item listed in the proposal price breakout schedule.

### **7.5. Tab E – Section 00 45 00 – Reps and Certs (Unless available at SAM.gov)**

#### **7.5.1 Submission Requirements:**

Unless available at SAM.gov, the Offeror shall fill out FAR Provision 52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment and include it with their submission.

### **7.6 Tab F – Proof of Financial Capability**

#### **7.6.1 Submission Requirements:**

Financial Capability: Submit proof of financial capability (most recent financial statement covering assets and liabilities). Include the name, address, point of contact (POC) name, POC email and telephone number of firm's banking institution.

#### **7.7 Evaluation Criteria:**

Price proposals will be evaluated by a Cost Engineer (separate from the SSEB) for fairness, reasonableness, and for material unbalancing through the use of price analysis in accordance with FAR 15.404-1.

The Proposal Data Sheet, the SF1442 and acknowledged amendments, JV Agreements, and Proof of Financial Capability will be used for the initial source selection review and will not be rated.

### **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
52.215-1	Instructions to Offerors--Competitive Acquisition	NOV 2021
52.217-5	Evaluation Of Options	JUL 1990
252.215-7008	Only One Offer	JUL 2019



252.215-7010	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data	JUL 2019
252.215-7012	Requirements for Submission of Proposals via Electronic Media.	JAN 2018
252.215-7013	Supplies and Services Provided by Nontraditional Defense Contractors.	JAN 2018

#### CLAUSES INCORPORATED BY FULL TEXT

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

The Government contemplates award of a firm fixed price construction contract resulting from this solicitation.

(End of provision)

##### 52.222-5 CONSTRUCTION WAGE RATE REQUIREMENTS--SECONDARY SITE OF THE WORK (MAY 2014)

(a)(1) The offeror shall notify the Government if the offeror intends to perform work at any secondary site of the work, as defined in paragraph (a)(1)(ii) of the FAR clause at 52.222-6, Construction Wage Rate Requirements , of this solicitation.

(2) If the offeror is unsure if a planned work site satisfies the criteria for a secondary site of the work, the offeror shall request a determination from the Contracting Officer.

(b)(1) If the wage determination provided by the Government for work at the primary site of the work is not applicable to the secondary site of the work, the offeror shall request a wage determination from the Contracting Officer.

(2) The due date for receipt of offers will not be extended as a result of an offeror's request for a wage determination for a secondary site of the work.

(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 twenty (20) percent of the bid price or \$3,000,000, 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

James W. Purcell  
Contracting Officer  
US Army Corps of Engineers (CELRN-RC-N)  
Directorate of Contracting  
110 9th Avenue South, Room A680  
Nashville, TN 37203

(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--

**Wednesday, 07 December 2022 at 09:00 AM Central Time**

(c) Participants will meet at--

**100 Power Plant Rd  
Jamestown, KY 42629**

(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):

<https://www.acquisition.gov>

<https://www.acq.osd.mil/dpap>

(End of provision)

#### 52.252-3 ALTERATIONS IN SOLICITATION (APR 1984)

Portions of this solicitation are altered as follows:

NONE

#### 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 Department of Defense Federal Acquisition Regulation Supplement (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)

## 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	NOV 2011
252.225-7055	Representation Regarding Business Operations with the Maduro Regime	MAY 2022
252.225-7973 (Dev)	Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems - Representation (DEVIATION 2020-O0015)	MAY 2020
252.227-7017	Identification and Assertion of Use, Release, or Disclosure Restrictions	JAN 2011

## CLAUSES INCORPORATED BY FULL TEXT

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

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 236210.

(2) The small business size standard is \$39,500,000.

(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 will be performed in the United States or its outlying areas.

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(C) The provision with its Alternate II applies to solicitations that will result in a multiple-award contract with more than one NAICS code assigned.

(xiii) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

(xiv) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.

(xv) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.

(xvi) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial 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 I, II, and III.) This provision applies to solicitations containing the clause at 52.225- 3.

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

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

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

(D) 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)

#### 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (OCT 2018)

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

Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

Federal contracts and grants with total value greater than \$10,000,000 means--

(1) The total value of all current, active contracts and grants, including all priced options; and

(2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

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

(b) The offeror ( ) has ( ) does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked "has" in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in--

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management, which can be accessed via <https://www.sam.gov> (see 52.204-7).

(End of provision)

#### 52.209-13 VIOLATION OF ARMS CONTROL TREATIES OR AGREEMENTS--CERTIFICATION (NOV 2021)

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

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

\_\_\_\_ (1) The Offeror certifies that--

(i) It does not engage and has not engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a). The report is available at <https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/>; and

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

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

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

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

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

(i) An inability to certify compliance.

(ii) An inability to conclude compliance.

(iii) A statement about compliance concerns.

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

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

(d) Do not submit an offer unless--

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

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

(i) Waived application under U.S.C. 2593e(d) or (e); or

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

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

(End of provision)

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)

252.204-7016 COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES --

## REPRESENTATION (DEC 2019)

(a) Definitions. As used in this provision, covered defense telecommunications equipment or services has the meaning provided in the clause 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services.

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

(c) Representation. The Offeror represents that it ☐ does, ☐ 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.

(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

## CLAUSES INCORPORATED BY REFERENCE

52.202-1	Definitions	JUN 2020
52.203-3	Gratuities	APR 1984
52.203-5	Covenant Against Contingent Fees	MAY 2014
52.203-6	Restrictions On Subcontractor Sales To The Government	JUN 2020
52.203-7	Anti-Kickback Procedures	JUN 2020
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	MAY 2014
52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity	MAY 2014
52.203-12	Limitation On Payments To Influence Certain Federal Transactions	JUN 2020
52.203-13	Contractor Code of Business Ethics and Conduct	NOV 2021
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
52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment	NOV 2021
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	NOV 2021
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters	OCT 2018
52.209-10	Prohibition on Contracting With Inverted Domestic Corporations	NOV 2015
52.210-1	Market Research	NOV 2021
52.211-13	Time Extensions	SEP 2000
52.215-2	Audit and Records--Negotiation	JUN 2020
52.219-8	Utilization of Small Business Concerns	OCT 2018
52.219-9	Small Business Subcontracting Plan	NOV 2021
52.219-16	Liquidated Damages-Subcontracting Plan	SEP 2021
52.222-3	Convict Labor	JUN 2003
52.222-4	Contract Work Hours and Safety Standards - Overtime Compensation	MAY 2018
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	OCT 2016
52.222-27	Affirmative Action Compliance Requirements for Construction	APR 2015
52.222-37	Employment Reports on Veterans	JUN 2020
52.222-40	Notification of Employee Rights Under the National Labor Relations Act	DEC 2010
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
52.223-6	Drug-Free Workplace	MAY 2001
52.223-18	Encouraging Contractor Policies To Ban Text Messaging While Driving	JUN 2020
52.225-13	Restrictions on Certain Foreign Purchases	FEB 2021
52.227-1	Authorization and Consent	JUN 2020
52.227-2	Notice And Assistance Regarding Patent And Copyright Infringement	JUN 2020
52.227-4	Patent Indemnity-Construction Contracts	DEC 2007
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
52.228-14	Irrevocable Letter of Credit	NOV 2014
52.228-15 (Dev)	Performance and Payment Bonds-Construction. (Deviation 2020-O0016)	JUN 2020
52.229-3	Federal, State And Local Taxes	FEB 2013
52.232-5	Payments under Fixed-Price Construction Contracts	MAY 2014
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
52.232-33	Payment by Electronic Funds Transfer--System for Award Management	OCT 2018
52.232-39	Unenforceability of Unauthorized Obligations	JUN 2013
52.232-40	Providing Accelerated Payments to Small Business Subcontractors	NOV 2021
52.233-1	Disputes	MAY 2014
52.233-3	Protest After Award	AUG 1996
52.233-4	Applicable Law for Breach of Contract Claim	OCT 2004
52.236-2	Differing Site Conditions	APR 1984
52.236-3	Site Investigation and Conditions Affecting the Work	APR 1984
52.236-5	Material and Workmanship	APR 1984
52.236-6	Superintendence by the Contractor	APR 1984
52.236-8	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 Alt I	Accident Prevention (Nov 1991) - Alternate I	NOV 1991
52.236-15	Schedules for Construction Contracts	APR 1984
52.236-16	Quantity Surveys	APR 1984
52.236-17	Layout of Work	APR 1984
52.236-21 Alt I	Specifications and Drawings for Construction (Feb 1997) - Alternate I	APR 1984
52.236-26	Preconstruction Conference	FEB 1995
52.242-5	Payments to Small Business Subcontractors	JAN 2017
52.242-13	Bankruptcy	JUL 1995
52.242-14	Suspension of Work	APR 1984
52.243-4	Changes	JUN 2007
52.244-6	Subcontracts for Commercial Products and Commercial Services	JAN 2022
52.246-12	Inspection of Construction	AUG 1996
52.246-21	Warranty of Construction	MAR 1994
52.248-3	Value Engineering-Construction	OCT 2020
52.249-2 Alt I	Termination for Convenience of the Government (Fixed-Price) (Apr 2012) - Alternate I	SEP 1996
52.249-10	Default (Fixed-Price Construction)	APR 1984
52.253-1	Computer Generated Forms	JAN 1991
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 2008
252.203-7002	Requirement to Inform Employees of Whistleblower Rights	SEP 2013
252.203-7003	Agency Office of the Inspector General	AUG 2019
252.203-7004	Display of Hotline Posters	AUG 2019
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
252.204-7018	Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services	JAN 2021
252.205-7000	Provision Of Information To Cooperative Agreement Holders	DEC 1991
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
252.219-7003	Small Business Subcontracting Plan (DOD Contracts)	DEC 2019
252.223-7004	Drug Free Work Force	SEP 1988
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
252.225-7012	Preference For Certain Domestic Commodities	MAR 2022
252.225-7048	Export-Controlled Items	JUN 2013
252.225-7052	Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten.	OCT 2020
252.225-7056	Prohibition Regarding Business Operations with the Maduro Regime	MAY 2022
252.225-7972 (Dev)	Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems (DEVIATION 2020-00015)	MAY 2020
252.227-7013	Rights in Technical Data--Noncommercial Items	FEB 2014
252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends	MAY 2013
252.227-7033	Rights in Shop Drawings	APR 1966

252.232-7003	Electronic Submission of Payment Requests and Receiving Reports	DEC 2018
252.232-7010	Levies on Contract Payments	DEC 2006
252.232-7017	Accelerating Payments to Small Business Subcontractors-- Prohibition on Fees and Consideration	APR 2020
252.236-7000	Modification Proposals-Price Breakdown	DEC 1991
252.236-7002	Obstruction of Navigable Waterways	DEC 1991
252.243-7001	Pricing Of Contract Modifications	DEC 1991
252.243-7002	Requests for Equitable Adjustment	DEC 2012
252.244-7000	Subcontracts for Commercial Items	JAN 2021
252.247-7023	Transportation of Supplies by Sea	FEB 2019

#### CLAUSES INCORPORATED BY FULL TEXT

#### 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (NOV 2021)

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

Covered contractor information system means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

Federal contract information means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public websites) or simple transactional information, such as necessary to process payments.

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

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

Safeguarding means measures or controls that are prescribed to protect information systems.

##### (b) Safeguarding requirements and procedures.

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.

(viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.

(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.

(x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

(xii) Identify, report, and correct information and information system flaws in a timely manner.

(xiii) Provide protection from malicious code at appropriate locations within organizational information systems.

(xiv) Update malicious code protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) Other requirements. This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial products or commercial services, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

(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 10 calendar days after the date the Contractor receives the notice to proceed, (b) prosecute all work diligently, (c) complete all work activities in the approved cost loaded schedule (other than commissioning activities), (d) complete the single line system test, as required by the contract specifications, and (e) complete the full system commissioning and testing. Items (c) and (d) must be completed no later than 470 calendar days after issuance of notice to proceed. Completion of items (c) and (d) will constitute substantial completion. Physical work associated with item (e) must be completed within 14 calendar days after TVA completes the final reservoir line installation. TVA is anticipated to complete reservoir line installation three months after substantial completion. Liquidated damages, as explained in 52.211-12

:LIQUIDATED DAMAGES – CONSTRUCTION (SEP 2000), will be assessed for each day beyond 470 calendar days after issuance of notice to proceed that items (c) and (d) remain incomplete. The entirety of the work will be completed and ready for use no later than 574 calendar days after issuance of notice to proceed.

(End of clause)

#### 52.211-12 LIQUIDATED DAMAGES--CONSTRUCTION (SEP 2000)

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of \$2,612.70 for each calendar day of delay until the work is completed or accepted.

(b) If the Government terminates the Contractor's right to proceed, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(End of clause)

#### 52.217-7 OPTION FOR INCREASED QUANTITY--SEPARATELY PRICED LINE ITEM (MAR 1989)

The Government may require the delivery of the numbered line item, identified in the Schedule as an option item, in the quantity and at the price stated in the Schedule. The Contracting Officer may exercise the option by written notice to the Contractor within 60 calendar days. Delivery of added items shall continue at the same rate that like items are called for under the contract, unless the parties otherwise agree.

(End of clause)

#### 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (SEP 2021)

(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 the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (d) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(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) concern eligible under the WOSB Program. [Complete only if the Contractor represented itself as a women-owned small business concern in paragraph (h)(3) of this clause.] The Contractor represents that--

(i) It [ ] is, [ ] is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (h)(4)(i) of this clause is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture.

[The Contractor shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: .] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(5) Economically disadvantaged women-owned small business (EDWOSB) concern. [Complete only if the Contractor represented itself as a women-owned small business concern eligible under the WOSB Program in (h)(4) of this clause.] The Contractor represents that--

(i) It [ ] is, [ ] is not an EDWOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (h)(5)(i) of this clause is accurate for each EDWOSB concern participating in the joint venture. [The Contractor shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: .] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

(6) [Complete only if the 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
<b>7.0%</b>	<b>6.9%</b>

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside 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 **Russell County, Kentucky.**

(End of provision)

#### 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (JUN 2020)

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

"Active duty wartime or campaign badge veteran," "Armed Forces service medal veteran," "disabled veteran," "protected veteran," "qualified disabled veteran," and "recently separated veteran" have the meanings given at Federal Acquisition Regulation (FAR) 22.1301.

(b) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts valued at or above the threshold specified in FAR 22.1303(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

(End of clause)

#### 52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUN 2020)

(a) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of the threshold specified in Federal Acquisition Regulation (FAR) 22.1408(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

(End of clause)

52.225-11 BUY AMERICAN—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS  
(DEVIATION 2020-O0019) (NOV 2021)

(a) Definitions. As used in this clause—

Caribbean Basin country construction material means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

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 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.

Designated country means any of the following countries:

- (1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or United Kingdom);
- (2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);
- (3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or
- (4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

Designated country construction material means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

Domestic construction material means—

- (1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both-
  - (i) An unmanufactured construction material mined or produced in the United States; or
  - (ii) A construction material manufactured in the United States, if--
    - (A) The cost of its components mined, produced, or manufactured in the United States exceeds 55 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or
    - (B) The construction material is a COTS item; or
- (2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a

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

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

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

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

Free Trade Agreement country construction material means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

Least developed country construction material means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a least developed country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

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.

WTO GPA country construction material means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) Construction materials.

(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 material, excluding COTS fasteners. (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

(2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

(3) The requirement in paragraph (b)(2) of this clause 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 identified at this time-**

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

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

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

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

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

(1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) 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)(4)(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)

52.225-12 NOTICE OF BUY AMERICAN ACT REQUIREMENT-- CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (MAY 2014) ALTERNATE II (JUN 2009)

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

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

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

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

(d) Alternate offers.

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

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

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material other than Bahrainian, Mexican, or Omani construction material. An offer based on use of the foreign construction material for which an exception was requested--

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

(ii) May be accepted if revised during negotiations.

(End of provision)

52.228-12 PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS. (MAY 2014)



In accordance with section 806(a)(3) of Pub. L. 102-190, as amended by sections 2091 and 8105 of Pub. L. 103-355 (10 U.S.C. 2302 note), upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of this contract for which a payment bond has been furnished to the Government pursuant to 40 U.S.C. chapter 31, subchapter III, Bonds, the Contractor shall promptly provide a copy of such payment bond to the requester.

(End of clause)

#### 52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)

The Contractor shall perform on the site, and with its own organization, work equivalent to at least **twenty-five percent (25%)** of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

(End of clause)

#### 52.236-4 PHYSICAL DATA (APR 1984)

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

(a) The indications of physical conditions on the drawings and in the specifications are the result of site investigations by Government.

(b) Weather conditions:

Based on Calendar Days:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
10	8	6	4	4	5	5	4	4	3	4	7

Based on 5-Day Workweek:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
7	6	4	3	3	4	4	3	3	2	3	5

The values in the table above represent the number of days in each month the Government anticipates adverse impacts to construction operations due to inclement weather (i.e. temperature, precipitation, wind, etc.)

(End of clause)

#### 52.236-7 PERMITS AND RESPONSIBILITIES (NOV 1991)

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or

property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

(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/>

<https://www.acquisition.gov/browse/index/far>

<https://www.acquisition.gov/dfars>

(End of clause)

#### 52.252-4 ALTERATIONS IN CONTRACT (APR 1984)

Portions of this contract are altered as follows:

NONE

(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 Defense Federal Acquisition Regulation Supplement (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:

Title	File	Drawing No.
-------	------	-------------

W912P523R0001_Tplans_WOL_Disolved Oxygen Cryogenic Facility Construction_100% CFD-RTA		
W912P523R0001_TSPECS_WOL_Dissolve Oxygen		

(End of clause)

#### 252.236-7004 PAYMENT FOR MOBILIZATION AND DEMOBILIZATION (DEC 1991)

(a) The Government will pay all costs for the mobilization and demobilization of all of the Contractor's plant and equipment at the contract lump sum price for this item.

(1) **Sixty (60)** percent of the lump sum price upon completion of the contractor's mobilization at the work site.

(2) The remaining **forty (40)** percent upon completion of demobilization.

(b) The Contracting Officer may require the Contractor to furnish cost data to justify this portion of the bid if the Contracting Officer believes that the percentages in paragraphs (a) (1) and (2) of this clause do not bear a reasonable relation to the cost of the work in this contract.

(1) Failure to justify such price to the satisfaction of the Contracting Officer will result in payment, as determined by the Contracting Officer, of --

(i) Actual mobilization costs at completion of mobilization;

(ii) Actual demobilization costs at completion of demobilization; and

(iii) The remainder of this item in the final payment under this contract.

(2) The Contracting Officer's determination of the actual costs in paragraph (b)(1) of this clause is not subject to appeal.

(End of Clause)

## Section 00 73 00 - Supplementary Conditions

WAGE DETERMINATION

General Decision Number: KY20220058 08/12/2022

Superseded General Decision Number: KY20210058

State: Kentucky

Construction Type: Heavy

Counties: Adair, Barren, Casey, Clinton, Cumberland, Green, Hart, Knox, Laurel, Logan, Marion, McCreary, Metcalfe, Pulaski, Russell, Simpson, Taylor, Wayne and Whitley Counties in Kentucky.

HEAVY CONSTRUCTION PROJECTS (including sewer/water construction).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658.

Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022: Executive Order 14026 generally applies to the contract. The contractor must pay all covered workers at least \$15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2022.

If the contract was awarded on or between January 1, 2015, and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022: Executive Order 13658 generally applies to the contract. The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Modification Number Publication Date

0	01/07/2022
1	02/25/2022
2	05/06/2022
3	08/12/2022

CARP0064-007 04/01/2022

	Rates	Fringes
CARPENTER (Form Work Only).....	\$ 30.84	22.19

ELEC0369-004 09/01/2021

	Rates	Fringes
LINE CONSTRUCTION		
Equipment Operator.....	\$ 36.17	17%+7.99
Groundman.....	\$ 23.81	17%+7.61
Lineman.....	\$ 40.51	17%+8.12

ENGI0181-010 07/01/2021

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 1.....	\$ 34.80	17.85
GROUP 2.....	\$ 31.94	17.85
GROUP 4.....	\$ 31.62	17.85
OPERATING ENGINEER CLASSIFICATIONS		
GROUP 1 - Crane; Drill; Grader/Blade; Mechanic; Scraper		

## GROUP 2 - Bobcat/Skid Steer/Skid Loader; Forklift

## GROUP 4 - Oiler

Operators on cranes with booms 150 feet and over (including jib) shall receive \$1.00 above Group 1 rate; 250 feet and over including jib shall receive \$1.50 above Class 1 rate.

Combination Rate: All crane operators operating cranes, where the length of the boom in combination with the length of the piling leads equal or exceeds 150 feet, shall receive \$1.00 above the Group 1 rate.

Employees assigned to work below ground level are to be paid 10% above basic wage rate. This does not apply to open cut work.

## \* IRON0782-010 08/01/2022

	Rates	Fringes
IRONWORKER (Reinforcing & Structural)		
Projects over		
\$20,000,000.00.....	\$ 31.87	23.22
Projects under		
\$20,000,000.00.....	\$ 30.28	23.22

## \* LABO0189-014 07/01/2022

	Rates	Fringes
LABORER		
Concrete Saw (Hand		
Held/Walk Behind).....	\$ 24.01	17.12
Concrete Worker.....	\$ 23.76	17.12

## SUKY2011-014 06/25/2014

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 21.60	10.35
ELECTRICIAN.....	\$ 32.35	2.18
LABORER: Common or General.....	\$ 20.60	9.39
LABORER: Flagger.....	\$ 18.31	8.89
LABORER: Pipelayer.....	\$ 20.13	8.63
OPERATOR:		
Backhoe/Excavator/Trackhoe.....	\$ 23.60	12.65
OPERATOR: Bulldozer.....	\$ 21.72	7.45
OPERATOR: Loader.....	\$ 30.35	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year.

Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example:

PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION