

<b>SOLICITATION, OFFER, AND AWARD</b> <i>(Construction, Alteration, or Repair)</i>	1. SOLICITATION NO.  N6247319R2434	2. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED  16-Oct-2019	PAGE OF PAGES  1 OF 122
<b>IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.</b>				
4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO.  ACQR5452281		6. PROJECT NO.	
7. ISSUED BY CODE N62473  NAVFAC SOUTHWEST CAPITAL IMPROVEMENTS CONTRACTS CORE CODE RAQ30 1220 PACIFIC HIGHWAY SAN DIEGO CA 92136  TEL: FAX:		8. ADDRESS OFFER TO <i>(If Other Than Item 7)</i> CODE  <div style="text-align: center; font-weight: bold; padding: 10px;">See Item 7</div> TEL: FAX:		
9. FOR INFORMATION CALL:	A. NAME  CHAD SLADE		B. TELEPHONE NO. <i>(Include area code) (NO COLLECT CALLS)</i>  619-532-4135	
SOLICITATION				
<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 <span style="float: right;"><i>(Title, identifying no., date):</i></span>  INDEFINITE DELIVERY INDEFINITE QUANTITY UNRESTRICTED MULTIPLE AWARD CONSTRUCTION CONTRACT FOR NEW CONSTRUCTION, REPAIR, AND RENOVATION OF WATERFRONT FACILITIES AT VARIOUS GOVERNMENT INSTALLATIONS LOCATED IN CALIFORNIA, ARIZONA, NEVADA, UTAH, COLORADO, AND NEW MEXICO  This is an unrestricted procurement with two or more awards reserved for highly qualified small businesses. Price evaluation preference will be given to HUBZone SB firms, in accordance with FAR 52.219-4. (See Section 00801 for further set-aside information).  NAICS: 237990 Size Standard: \$39.5 Million Maximum dollar amount for all contracts combined is \$750,000,000. Estimated Task Order range is \$50,000 to \$100,000,000  Minimum Guarantee is \$5,000 Offerors must demonstrate a minimum aggregate bonding capacity of \$100 million to allow for the management of multiple, concurrent projects at the higher dollar magnitude within the task order price range. Construction Contract – Net 14 days for payment (FAR 52.232-27)				
11. The Contractor shall begin performance within <u>1</u> calendar days and complete it within <u>730</u> calendar days after receiving <input checked="" type="checkbox"/> award, <input type="checkbox"/> notice to proceed. This performance period is <input checked="" type="checkbox"/> mandatory, <input type="checkbox"/> negotiable. (See Each Task Order _____.)				
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  15	
13. ADDITIONAL SOLICITATION REQUIREMENTS:  A. Sealed offers in original and <u>3</u> copies to perform the work required are due at the place specified in Item 8 by <u>02:00 PM</u> (hour) local time <u>19 Nov 2019</u> (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.  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>120</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>					
					<b>16. REMITTANCE ADDRESS</b> <i>(Include only if different than Item 14)</i>  <b>See Item 14</b>					
CODE		FACILITY CODE								
<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>										
AMOUNTS		SEE SCHEDULE OF PRICES								
<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>			CODE		<b>27. PAYMENT WILL BE MADE BY:</b> CODE					
<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 consummates 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>		TEL:			EMAIL:		
					<b>31B. UNITED STATES OF AMERICA</b> BY			<b>31C. AWARD DATE</b>		

## Section 00010 - Solicitation Contract Form

ITEM NO	SUPPLIES/SERVICES	MAX QUANTITY	UNIT	UNIT PRICE	MAX AMOUNT
0001	MACC/NAICS 237990/UR/WATERFRONT IV FFP This is an indefinite delivery indefinite quantity (IDIQ) contract with no pre-established fixed contract prices. The actual amount of work to be performed and the time of such performance will be determined by the Contracting Officer or his/her properly authorized representative, who will issue written task orders to the Contractor. Award of the task order will be on a firm-fixed price basis. Maximum of \$750,000,000 is for all contracts combined and will serve as the maximum/NTE amount of the entire contract period. The Government has the option to extend the term of the contract for a term of one (1) thirty six (36) month period by written notice to the Contractor within the performance period specified in the Schedule. PURCHASE REQUEST NUMBER: ACQR5452281	750,000,000	Each		

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MAX  
NET AMT

ITEM NO	SUPPLIES/SERVICES	MAX QUANTITY	UNIT	UNIT PRICE	MAX AMOUNT
0002	Proposed Task Order (PTO) 0001 FFP DESIGN AND CONSTRUCT PIER REPAIRS AT A NAVY BASE IN SOUTHERN CALIFORNIA FOB: Destination PURCHASE REQUEST NUMBER: ACQR5452281	1	Each		

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MAX  
NET AMT

## INSPECTION AND ACCEPTANCE TERMS

Supplies/services will be inspected/accepted at:

CLIN	INSPECT AT	INSPECT BY	ACCEPT AT	ACCEPT BY
0001	N/A	N/A	N/A	Government
0002	N/A	N/A	N/A	Government

## DELIVERY INFORMATION

CLIN	DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
0001	N/A	N/A	N/A	N/A
0002	N/A	N/A	N/A	N/A

## Section 00100 - Bidding Schedule/Instructions to Bidders

SECTION 00100**SECTION 00100 - INSTRUCTIONS TO OFFERORS**  
**INSTRUCTIONS TO OFFERORS****1. Inquiries**

Inquiries regarding the Request for Proposal (RFP) shall be submitted electronically using the Request for Information (RFI) form provided as an attachment. The Point of Contact (POC) for inquiries is Chad Slade at 619-532-4135, or e-mail at chad.a.slade@navy.mil. The Government does not intend to respond to inquiries submitted less than 10 days before the proposal receipt date.

**2. Proposal Submittal Requirements**

Proposals submitted in response to this solicitation shall be formatted as follows and furnished in the number of copies stated herein. The cover letter form (provided as a separate Word file) shall be submitted with the proposal.

The cover letter shall include—

- (a) The solicitation number;
- (b) The name, address, telephone and facsimile numbers, and email address of the Offeror and Lead Design Firm(s);
- (c) The **DUNS Number, CAGE Code, and Tax Identification Number (TIN)** of the Offeror;
- (d) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;
- (e) Names, titles, phone and facsimile numbers, and email addresses of persons authorized to negotiate on the Offeror's behalf with the Government in connection with this solicitation and;
- (f) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

In addition to the cover letter, the Offeror shall submit an Offeror's Team Consent Form for each major subcontractor/teaming partner (e.g., team member, subcontractor (i.e., Lead Design Firm(s)), parent company, subsidiary, or other affiliated company, etc.) identified in the Offeror's proposal.

Proposals shall be submitted in three ring binders or bound, with tabs or separators. Page limits, if stipulated, must be adhered to. Proposals shall be submitted on 8.5" X 11" paper, utilizing both sides of the paper.

The format for the proposal is as follows:

**Phase One:**

Cover Letter

Offeror's Team Consent Form(s)

First two pages of SF1442 - with blocks 14 through 20c completed

Financial Questionnaire (Original in sealed envelope from financial institution in original proposal folder only)

Surety Form

Section 00600 – Representations and Certifications

VETS-4212 Report Submission Confirmation (or Statement of Non-applicability)

Tab 1 - Factor 1, Technical Approach (Exhibit "A," Organizational Chart, and Signed Copies of Agreements or Letters of Commitment for Each Member of the Offeror's Team)

Tab 2 - Factor 2, Experience (Exhibits "B")

- Factor 3, Past Performance (Exhibits "C" or CPARS/CCASS/ACASS evaluations)

(Evaluations should immediately follow the project shown on Exhibit “B” to which they pertain)  
Tab 3 - Exhibit “D” Past Performance – Small Business Utilization) Address any adverse past performance issues, if applicable

**THE FOLLOWING EVALUATION FACTORS ARE APPLICABLE ONLY TO THOSE OFFERORS WHO ARE SELECTED TO PROCEED TO PHASE TWO OF THE SOURCE SELECTION PROCESS. DO NOT SUBMIT TABS 4 THROUGH 7 IN PHASE ONE PROPOSALS.**

**Phase Two:**

Tab 4 - Factor 4, Safety (Exhibit "E")

Tab 5 - Factor 5, Technical Solution (Narrative and Drawings)

Tab 6 - Factor 6, Small Business Participation (Offeror Only) (Exhibit "F")

Tab 7 - Factor 7, Price (In sealed envelope in original proposal folder only) – The envelope shall contain the following original documents: SF1442 (Solicitation, Offer, and Award) with blocks 14 through 20c completed; Bid Bond (in the amount of 20% of the proposal price for PTO #0001 or \$3,000,000, whichever is less)

**Representations and Certifications, Financial Questionnaires, and Surety Forms will not be rated. However, they will be considered in assessing the Offeror's responsibility.**

Offerors are asked to submit only the information/exhibits required. Do not submit any additional information such as brochures, CDs, or other pre-printed materials.

A total of one (1) original and three (3) hard copies of the complete **Phase One** proposal in response to this RFP must be received by this office no later than the date and time stated in Block 13 of the SF1442. Offerors should address all **Phase One** evaluation factors and shall submit the proposal to the following address:

Naval Facilities Engineering Command Southwest  
Capital Improvements Acquisition Core /RRA30.CS  
Attention: Chad Slade  
1220 Pacific Highway, Building 127  
San Diego, CA 92132-5190

Proposal must be clearly marked on the outside of the package with the solicitation number.

**LATE SUBMITTALS WILL NOT BE CONSIDERED.**

It is an Offeror's responsibility to deliver its proposal to the proper place at the proper time, which includes allowing a reasonable amount of time for the delivery of the proposal. (See FAR 15.208(a)). Proposals that are received after the stated date and time in Block 13 of the SF1442 will not be considered.

Offerors shall ensure that proposals are mailed or sent by courier in a timely manner to be delivered to the NAVFAC Southwest facility no later than the date and time stated in Block 13 of the SF1442.

Offerors intending to deliver the proposals in person to the facility at the address above are cautioned that this NAVFAC Southwest facility is located in downtown San Diego. An Offeror risks the late receipt and rejection of a proposal where it delays delivering its proposal until the last few minutes before the time set for receipt of proposals. It is recommended that the Offeror allows for delays in driving through downtown San Diego caused by traffic (both freeway and downtown), construction projects, train/trolley crossing, parking at the pay lots/meters near the facility, and gaining access to a secure Government facility. No parking or offloading of proposals is available at the Government facility. Proposals are to be delivered to personnel in the mailroom in Building 128, and reasonable time shall be allowed for the person in the mailroom to receive and time stamp the proposal. The stamp time is determined from the NAVFAC Southwest facility mailroom time stamp and not any other time keeping equipment that the Offeror may own. Immediately upon proposal delivery, the Offeror shall leave the Government facility. An Offeror that does not leave the premises may be requested to leave or escorted by security personnel.

### 3. Pre-Proposal Conference

- (a) A pre-proposal conference and site visit will not be conducted at this time.
- (b) A list of Frequently-Asked-Questions (FAQ) with appropriate responses is provided as an attachment to the RFP. All firms are encouraged to review the FAQ. The FAQ should be viewed prior to submitting any questions regarding the RFP.
- (c) Failure of a prospective Offeror to submit any questions will be construed to mean that the Offeror fully understands all requirements of the solicitation.
- (d) All prospective Offerors are advised that this solicitation will remain unchanged unless it is amended in writing. Amendments will be posted on the website at <https://www.fbo.gov/>. However, if an amendment is issued, normal procedures relating to the acknowledgment and receipt of any such amendment as described in Contract Clause "Amendment to Solicitations" of this section shall be applicable.

### 4. Financial Questionnaire

Offerors shall submit the Financial Questionnaire to their financial institution and request the financial institution complete the questionnaire with regard to the Offeror's firm. Upon completion of the questionnaire, the financial institution should **place the completed questionnaire in a sealed envelope showing the return address of the financial institution and forward it to the Offeror** so that the Offeror can include the questionnaire (in the sealed envelope) with the Offeror's proposal.

**If the Offeror is a joint venture, information should be submitted for the joint venture. If there is no information for the joint venture, information should be submitted for each joint venture partner.**

### 5. Surety Form

Offerors shall submit the Surety Form to report their surety bonding information, verifying aggregate bonding capacity, current available bonding, as well as single project limit. Ensure the name of the Offeror's surety, including the name and phone number of the Offeror's agent within the surety, is shown on the form.

**If the Offeror is a joint venture, one Surety Form shall be submitted for the joint venture, not the individual partners.**

### 6. System for Award Management

The System for Award Management (SAM) is combining federal procurement systems and the Catalog of Federal Domestic Assistance into one new system. This consolidation includes the functionality from the following systems:

- \* Central Contractor Registry (CCR)
- \* Federal Agency Registration (Fedreg)
- \* Online Representations and Certifications Application (ORCA)
- \* Excluded Parties List System (EPLS)

Contractors must be registered in the System for Award Management (SAM) prior to award of a DoD contract. In order to participate on this solicitation, contractors must also complete electronic representations and certifications. For more information and to complete the electronic Reps & Certs, see the SAM website at <http://www.sam.gov>. **A contract cannot be awarded to a contractor not registered in SAM.** Remember to review the NAICS codes listed in your SAM record and make sure that you have listed the NAICS code for this procurement.

Note: **Offerors must complete and submit Section 00600 of the RFP as part of their proposal even if the Offeror is registered in SAM.** Section 00600 of the RFP contains clauses which are not found in the electronic Reps & Certs in SAM; therefore, we require them to be completed and submitted as part of your proposal. The



clauses found in Section 00600 of the RFP are also broken out as a separate form titled “Section 00600 – Representations and Certifications” which can be found with the other RFP Exhibits.

## **7. Federal Contractor Reporting**

In accordance with Federal Acquisition Regulation (FAR) 22.13, any contractor or subcontractor with a contract or subcontract with the Federal Government of \$150,000 or more that was entered into on or after October 1, 2015 (or \$100,000 or more that was entered prior to October 1, 2015) must take affirmative action to hire and promote qualified covered veterans which includes, special disabled veterans, veterans of the Vietnam-era, recently separated veterans, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

If subject to the reporting requirements, companies must file an annual VETS-4212 Report, which shows the number of covered veterans in their workforce and number of new hires, including covered veterans hired during the reporting period. Instructions, information, and follow-up assistance is provided at VETS-4212 Internet site at <http://www.dol.gov/vets/vets4212.htm> or employers may contact the VETS-4212 customer support at (866) 237-0275 or e-mail at [VETS4212-customersupport@dol.gov](mailto:VETS4212-customersupport@dol.gov).

VETS-4212 Reports must be filed between August 1 and September 30 of each year following a calendar year in which a contractor or subcontractor held a covered contract or subcontract.

Upon the successful submission of a VETS-4212 report, federal contractors will receive an email confirmation of receipt notification for their records. **Offerors shall include a copy of their confirmation notification email in their proposal as verification of submission for the current reporting period. DO NOT SUBMIT A COPY OF THE REPORT ITSELF. If this requirement is not applicable to your firm, provide a statement that your firm does not have any contracts subject to this requirement.**

**A contract cannot be awarded to a contractor that has not submitted a required annual form VETS-4212, Federal Contractor Veterans’ Employment Report (VETS-4212 Report) if subject to the reporting requirements of 38 U.S.C. 4212(d) for that fiscal year.**

## **8. Incurred Expenses**

The Government is not responsible for any costs incurred or associated with preparation and submission of a proposal in response to this solicitation.

## **9. No Alternate or Multiple Proposals**

Neither multiple proposals, nor proposal variations or options, nor alternate or alternative proposals will be considered in the evaluation.

## **10. Mentor Protégé Agreements**

Only Mentor Protégé Agreements formally approved by the SBA will be considered for this procurement. Mentor Protégé Agreements approved by other agencies will not be considered. The proposal shall contain both the Joint Venture Agreement and the SBA letter of approval for the Mentor Protégé Agreement, showing the approval is valid as of the date of the proposal submission.

CLAUSES INCORPORATED BY FULL TEXT

52.204-7 SYSTEM FOR AWARD MANAGEMENT (OCT 2018)

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

Electronic Funds Transfer (EFT) indicator means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see subpart 32.11) for the same entity.

Registered in the System for Award Management (SAM) means that--

- (1) The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14) into SAM;
- (2) The offeror has completed the Core, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in SAM;
- (3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and
- (4) The Government has marked the record ``Active".

Unique entity identifier means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See [www.sam.gov](http://www.sam.gov) for the designated entity for establishing unique entity identifiers.

(b)(1) 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.

(2) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation ``Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable. The unique entity identifier will be used by the Contracting Officer to verify that the Offeror is registered in SAM.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at [www.sam.gov](http://www.sam.gov) for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

- (1) Company legal business name.
- (2) Tradestyle, doing business, or other name by which your entity is commonly recognized.
- (3) Company physical street address, city, state, and Zip Code.
- (4) Company mailing address, city, state and Zip Code (if separate from physical).
- (5) Company telephone number.
- (6) Date the company was started.
- (7) Number of employees at your location.

(8) Chief executive officer/key manager.

(9) Line of business (industry).

(10) Company headquarters name and address (reporting relationship within your entity).

(d) Processing time should be taken into consideration when registering. Offerors who are not registered in SAM should consider applying for registration immediately upon receipt of this solicitation. See <https://www.sam.gov> for information on registration.

(End of Provision)

## 52.204-16 COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING (JUL 2016)

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

Commercial and Government Entity (CAGE) code means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

(b) The Offeror shall enter its CAGE code in its offer with its name and address or otherwise include it prominently in its proposal. The CAGE code entered must be for that name and address. Enter "CAGE" before the number. The CAGE code is required prior to award.

(c) CAGE codes may be obtained via--

(1) Registration in the System for Award Management (SAM) at [www.sam.gov](http://www.sam.gov). If the Offeror is located in the United States or its outlying areas and does not already have a CAGE code assigned, the DLA Commercial and Government Entity (CAGE) Branch will assign a CAGE code as a part of the SAM registration process. SAM registrants located outside the United States and its outlying areas shall obtain a NCAGE code prior to registration in SAM (see paragraph (c)(3) of this provision).

(2) The DLA Commercial and Government Entity (CAGE) Branch. If registration in SAM is not required for the subject procurement, and the offeror does not otherwise register in SAM, an offeror located in the United States or its outlying areas may request that a CAGE code be assigned by submitting a request at <https://cage.dla.mil>.

(3) The appropriate country codification bureau. Entities located outside the United States and its outlying areas may obtain an NCAGE code by contacting the Codification Bureau in the foreign entity's country if that country is a member of NATO or a sponsored nation. NCAGE codes may be obtained from the NSPA at <https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx> if the foreign entity's country is not a member of NATO or a sponsored nation. Points of contact for codification bureaus, as well as additional information on obtaining NCAGE codes, are available at <http://www.nato.int/structur/AC/135/main/links/contacts.htm>.

(d) Additional guidance for establishing and maintaining CAGE codes is available at <https://cage.dla.mil>.

(e) When a CAGE Code is required for the immediate owner and/or the highest-level owner by 52.204-17 or 52.212-3(p), the Offeror shall obtain the respective CAGE Code from that entity to supply the CAGE Code to the Government.

(f) Do not delay submission of the offer pending receipt of a CAGE code.

(End of Provision)

#### 52.215-1 INSTRUCTIONS TO OFFERORS--COMPETITIVE ACQUISITION (JAN 2017)

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

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

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

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

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

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

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

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

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

(i) The solicitation number;

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

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

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

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

(3) Submission, modification, or revision, of proposals.

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

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

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

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

(3) It is the only proposal received.

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Contract award.

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

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

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

(4) The Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

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

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

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

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

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

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

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

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

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

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

(iv) A summary of the rationale for award.

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

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

(End of provision)

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

The Government contemplates award of a Firm Fixed Price Indefinite Delivery Indefinite Quantity contract resulting from this solicitation.

(End of provision)

### CLAUSES INCORPORATED BY FULL TEXT

#### 52.216-27 SINGLE OR MULTIPLE AWARDS. (OCT 1995)

The Government may elect to award a single delivery order contract or task order contract or to award multiple delivery order contracts or task order contracts for the same or similar supplies or services to two or more sources under this solicitation.

(End of provision)

### CLAUSES INCORPORATED BY FULL TEXT

#### 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (DEVIATION 2019-O0003) (JAN 2019)

(a) Definitions. As used in this clause—

“HUBZone small business concern” means a small business concern, certified by the Small Business Administration (SBA), that appears on the List of Qualified HUBZone Small Business Concerns maintained by the SBA (13 CFR 126.103).

“Similarly situated entity” means a first-tier subcontractor, including an independent contractor, that has the same small business program status as that which qualified the prime contractor for the award; as is considered small for the NAICS code the prime contractor assigned to the subcontract the subcontractor will perform. An example of a similarly situated entity is a first-tier subcontractor that is a HUBZone small business concern for a HUBZone set-aside or sole source award under the HUBZone Program.

(b) Evaluation preference.

(1) Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except—

(i) Offers from HUBZone small business concerns that have not waived the evaluation preference; and

(ii) Otherwise successful offers from small business concerns.

(2) The factor of 10 percent shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor.

(3) When the two highest rated offerors are a HUBZone small business concern and a large business, and the evaluated offer of the HUBZone small business concern is equal to the evaluated offer of the large business after considering the price evaluation preference, award will be made to the HUBZone small business concern.

(c) Waiver of evaluation preference. A HUBZone small business concern may elect to waive the evaluation preference, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraphs (d) and (e) of this clause do not apply if the offeror has waived the evaluation preference.

\_\_\_ Offeror elects to waive the evaluation preference.

(d) Independent contractors. An independent contractor shall be considered a subcontractor.

(e) Agreement. By submission of an offer and execution of a contract, a HUBZone small business concern agrees that, in the case of a contract for—

(1) Services (except construction), it will not pay more than 50 percent of the amount paid by the Government for contract performance to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count toward the 50 percent subcontract amount that cannot be exceeded;

(2) Supplies (other than procurement from a nonmanufacturer of such supplies), it will not pay more than 50 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count toward the 50 percent subcontract amount that cannot be exceeded;

(3) General construction, it will not pay more than 85 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count toward the 85 percent subcontract amount that cannot be exceeded; or

(4) Construction by special trade contractors, it will not pay more than 75 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count toward the 75 percent subcontract amount that cannot be exceeded.

(f) A HUBZone joint venture agrees that the aggregate of the HUBZone small business concerns to the joint venture, not each concern separately, will perform the applicable requirements specified in paragraph (d) of this clause.

(g) Notice. The HUBZone small business offeror acknowledges that a prospective HUBZone awardee must be a HUBZone small business concern at the time of award of this contract. The HUBZone offeror shall provide the Contracting Officer a copy of the notice required by 13 CFR 126.501 if material changes occur before contract award that could affect its HUBZone eligibility. If the apparently successful HUBZone offeror is not a HUBZone small business concern at the time of award of this contract, the Contracting Officer will proceed to award to the next otherwise successful HUBZone small business concern or other offeror.

(End of clause)



## 52.219-6 NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (DEVIATION 2019-O0003) (JAN 2019)

(a) Definition. “Small business concern,” means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

(b) Applicability. This clause applies only to—

(1) Contracts that have been totally set aside or reserved for small business concerns; and

(2) Orders set aside for small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) General.

(1) Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered nonresponsive and will be rejected.

(2) Any award resulting from this solicitation will be made to a small business concern.

(d) Agreement.

(1) For a contract at or below the simplified acquisition threshold, a small business concern may provide the end item of any firm. For a contract exceeding the simplified acquisition threshold, a small business concern that provides an end item it did not manufacture, process, or produce, shall—

(i) Provide an end item that a small business has manufactured, processed, or produced in the United States or its outlying areas;

(ii) Be primarily engaged in the retail or wholesale trade and normally sell the type of item being supplied; and

(iii) Take ownership or possession of the item(s) with its personnel, equipment, or facilities in a manner consistent with industry practice; for example, providing storage, transportation, or delivery.

(2) Paragraph (d)(1) of this clause does not apply to construction or service contracts.

(End of clause)

## 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (AUG 2018)

(a) This clause does not apply to small business concerns.

(b) Definitions. As used in this clause—

“Alaska Native Corporation (ANC)” means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended ([43 U.S.C. 1601](#), et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at [43 U.S.C. 1626\(e\)\(1\)](#). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of [43 U.S.C. 1626\(e\)\(2\)](#).

“Commercial item” means a product or service that satisfies the definition of commercial item in section [2.101](#) of the Federal Acquisition Regulation.

“Commercial plan” means a subcontracting plan (including goals) that covers the offeror’s fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

“Electronic Subcontracting Reporting System (eSRS)” means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

“Indian tribe” means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act ([43 U.S.C.A. 1601](#) et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with [25 U.S.C. 1452\(c\)](#). This definition also includes Indian-owned economic enterprises that meet the requirements of [25 U.S.C. 1452\(e\)](#).

“Individual subcontracting plan” means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror’s planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

“Master subcontracting plan” means a subcontracting plan that contains all the required elements of an individual subcontracting plan, except goals, and may be incorporated into individual subcontracting plans, provided the master subcontracting plan has been approved.

“Reduced payment” means a payment that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions, for supplies and services for which the Government has paid the prime contractor.

“Subcontract” means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

“Total contract dollars” means the final anticipated dollar value, including the dollar value of all options.

“Untimely payment” means a payment to a subcontractor that is more than 90 days past due under the terms and conditions of a subcontract for supplies and services for which the Government has paid the prime contractor.

(c)(1) The Offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the Offeror is submitting an individual subcontracting plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The subcontracting plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the Offeror ineligible for award of a contract.

(2)(i) The Contractor may accept a subcontractor’s written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small

business, or a women-owned small business if the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.

(ii) The Contractor may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if—

(A) The subcontractor is registered in SAM; and

(B) The subcontractor represents that the size and socioeconomic status representations made in SAM are current, accurate and complete as of the date of the offer for the subcontract.

(iii) The Contractor may not require the use of SAM for the purposes of representing size or socioeconomic status in connection with a subcontract.

(iv) In accordance with 13 CFR 121.411, 124.1015, 125.29, 126.900, and 127.700, a contractor acting in good faith is not liable for misrepresentations made by its subcontractors regarding the subcontractor's size or socioeconomic status.

(d) The Offeror's subcontracting plan shall include the following:

(1) Separate goals, expressed in terms of total dollars subcontracted, and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals shall also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with [43 U.S.C. 1626](#)—

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe; and

(ii) Where one or more subcontractors are in the subcontract tier between the prime Contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate Contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of—

(i) Total dollars planned to be subcontracted for an individual subcontracting plan; or the Offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

(vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to—

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, SAM, veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the Offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

(i) Small business concerns (including ANC and Indian tribes);

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns (including ANC and Indian tribes); and

(vi) Women-owned small business concerns.

(7) The name of the individual employed by the Offeror who will administer the Offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the Offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the Offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the Offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$700,000 (\$1.5 million for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the Offeror will—

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the Offeror with the subcontracting plan;

(iii) After November 30, 2017, include subcontracting data for each order when reporting subcontracting achievements for indefinite-delivery, indefinite-quantity contracts with individual subcontracting plans where the contract is intended for use by multiple agencies;

(iv) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (I) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by SBA as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;

(v) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;

(vi) Provide its prime contract number, its unique entity identifier, and the e-mail address of the Offeror's official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and

(vii) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own unique entity identifier, and the e-mail address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and

award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., SAM), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$150,000, indicating—

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

(D) Whether HUBZone small business concerns were solicited and, if not, why not;

(E) Whether small disadvantaged business concerns were solicited and, if not, why not;

(F) Whether women-owned small business concerns were solicited and, if not, why not; and

(G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact—

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, service-disabled veteran-owned, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through—

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(12) Assurances that the Offeror will make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that it used in preparing the bid or proposal, in the same or greater scope, amount, and quality used in preparing and submitting the bid or proposal. Responding to a request for a quote does not constitute use in preparing a bid or proposal. The Offeror used a small business concern in preparing the bid or proposal if—

- (i) The Offeror identifies the small business concern as a subcontractor in the bid or proposal or associated small business subcontracting plan, to furnish certain supplies or perform a portion of the subcontract; or
- (ii) The Offeror used the small business concern's pricing or cost information or technical expertise in preparing the bid or proposal, where there is written evidence of an intent or understanding that the small business concern will be awarded a subcontract for the related work if the Offeror is awarded the contract.

(13) Assurances that the Contractor will provide the Contracting Officer with a written explanation if the Contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in (d)(12) of this clause. This written explanation must be submitted to the Contracting Officer within 30 days of contract completion.

(14) Assurances that the Contractor will not prohibit a subcontractor from discussing with the Contracting Officer any material matter pertaining to payment to or utilization of a subcontractor.

(15) Assurances that the offeror will pay its small business subcontractors on time and in accordance with the terms and conditions of the underlying subcontract, and notify the contracting officer when the prime contractor makes either a reduced or an untimely payment to a small business subcontractor (see [52.242-5](#)).

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern in accordance with [52.219-8\(d\)\(2\)](#).

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(6) For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, prior to award of the subcontract the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror and if the successful subcontract offeror is a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concern.

(7) Assign each subcontract the NAICS code and corresponding size standard that best describes the principal purpose of the subcontract.

(f) A master subcontracting plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the Offeror by this clause; provided—

(1) The master subcontracting plan has been approved;

(2) The Offeror ensures that the master subcontracting plan is updated as necessary and provides copies of the approved master subcontracting plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master subcontracting plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) A contract may have no more than one subcontracting plan. When a contract modification exceeds the subcontracting plan threshold in [19.702\(a\)](#), or an option is exercised, the goals of the existing subcontracting plan shall be amended to reflect any new subcontracting opportunities. When the goals in a subcontracting plan are amended, these goal changes do not apply retroactively.

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at [52.212-5](#), Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, or when the subcontractor provides a commercial item subject to the clause at [52.244-6](#), Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization Of Small Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract and may be considered in any past performance evaluation of the Contractor.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the Contractor or subcontractor are not included in these reports. Subcontract awards by affiliates shall be treated as subcontract awards by the Contractor. Subcontract award data reported by the Contractor and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State



Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

(1) ISR. This report is not required for commercial plans. The report is required for each contract containing an individual subcontracting plan.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period. When the Contracting Officer rejects an ISR, the Contractor shall submit a corrected report within 30 days of receiving the notice of ISR rejection.

(ii)(A) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR [19.704\(c\)](#), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(B) If a subcontracting plan has been added to the contract pursuant to [19.702\(a\)\(3\)](#) or [19.301-2\(e\)](#), the Contractor's achievements must be reported in the ISR on a cumulative basis from the date of incorporation of the subcontracting plan into the contract.

(iii) When a subcontracting plan includes indirect costs in the goals, these costs must be included in this report.

(iv) The authority to acknowledge receipt or reject the ISR resides—

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) SSR.

(i) Reports submitted under individual contract plans.

(A) This report encompasses all subcontracting under prime contracts and subcontracts with an executive agency, regardless of the dollar value of the subcontracts. This report also includes indirect costs on a prorated basis when the indirect costs are excluded from the subcontracting goals.

(B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If the Contractor or a subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over \$700,000 (over \$1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime contractors.

(D) The report shall be submitted annually by October 30 for the twelve month period ending September 30. When a Contracting Officer rejects an SSR, the Contractor shall submit a revised report within 30 days of receiving the notice of SSR rejection.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) Reports submitted under a commercial plan.

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year and all indirect costs.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(End of clause)

52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (DEVIATION 2018-O0018) (AUG 2018)

(a) This clause does not apply to small business concerns.

(b) Definitions. As used in this clause -

“Alaska Native Corporation (ANC)” means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended ([43 U.S.C. 1601](#), et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at [43 U.S.C. 1626\(e\)\(1\)](#). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of [43 U.S.C. 1626\(e\)\(2\)](#).

“Commercial item” means a product or service that satisfies the definition of commercial item in section [2.101](#) of the Federal Acquisition Regulation.

“Commercial plan” means a subcontracting plan (including goals) that covers the offeror’s fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

“Electronic Subcontracting Reporting System (eSRS)” means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

“Indian tribe” means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act ([43 U.S.C.A. 1601](#) et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with [25 U.S.C. 1452\(c\)](#). This definition also includes Indian-owned economic enterprises that meet the requirements of [25 U.S.C. 1452\(e\)](#).

“Individual contract plan” means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror’s planned subcontracting in

support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

“Master plan” means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

“Subcontract” means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The Offeror’s subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all sub-contracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with [43 U.S.C. 1626](#):

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC’s or the Indian tribe’s written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of—

- (i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;
- (ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);
- (iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;
- (iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;
- (v) Total dollars planned to be subcontracted to HUBZone small business concerns;
- (vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and
- (vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to—

- (i) Small business concerns;
- (ii) Veteran-owned small business concerns;
- (iii) Service-disabled veteran-owned small business concerns;
- (iv) HUBZone small business concerns;
- (v) Small disadvantaged business concerns; and
- (vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the System for Award Management (SAM), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

- (i) Small business concerns (including ANC and Indian tribes);
- (ii) Veteran-owned small business concerns;

- (iii) Service-disabled veteran-owned small business concerns;
  - (iv) HUBZone small business concerns;
  - (v) Small disadvantaged business concerns (including ANC and Indian tribes); and
  - (vi) Women-owned small business concerns.
- (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.
- (9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$700,000 (\$1.5 million for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.
- (10) Assurances that the offeror will—
- (i) Cooperate in any studies or surveys as may be required;
  - (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
  - (iii) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause;
  - (iv) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;
  - (v) Provide its prime contract number, its unique entity identifier, and the e-mail address of the offeror's official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and
  - (vi) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own unique entity identifier, and the e-mail address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.
- (11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and

award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., SAM), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than the simplified acquisition threshold, indicating -

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

(D) Whether HUBZone small business concerns were solicited and, if not, why not;

(E) Whether small disadvantaged business concerns were solicited and, if not, why not;

(F) Whether women-owned small business concerns were solicited and, if not, why not; and

(G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact—

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through—

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(12) Assurances that the Offeror will make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that it used in preparing

the bid or proposal, in the same or greater scope, amount, and quality used in preparing and submitting the bid or proposal. Responding to a request for a quote does not constitute use in preparing a bid or proposal. The Offeror used a small business concern in preparing the bid or proposal if--

- (i) The Offeror identifies the small business concern as a subcontractor in the bid or proposal or associated small business subcontracting plan, to furnish certain supplies or perform a portion of the subcontract; or
- (ii) The Offeror used the small business concern's pricing or cost information or technical expertise in preparing the bid or proposal, where there is written evidence of an intent or understanding that the small business concern will be awarded a subcontract for the related work if the Offeror is awarded the contract.

(13) Assurances that the Contractor will provide the Contracting Officer with a written explanation if the Contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in (d)(12) of this clause. This written explanation must be submitted to the Contracting Officer within 30 days of contract completion.

(14) Assurances that the Contractor will not prohibit a subcontractor from discussing with the Contracting Officer any material matter pertaining to payment to or utilization of a subcontractor.

(15) Assurances that the offeror will pay its small business subcontractors on time and in accordance with the terms and conditions of the underlying subcontract, and notify the contracting officer when the prime contractor makes either a reduced or an untimely payment to a small business subcontractor (see 52.242-5).

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the SAM database or by contacting SBA.

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(6) For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, the Contractor must

inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror prior to award of the contract.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided—

(1) The master plan has been approved;

(2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) A contract may have no more than one plan. When a modification meets the criteria in [19.702](#) for a plan, or an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at [52.212-5](#), Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, or when the subcontractor provides a commercial item subject to the clause at [52.244-6](#), Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with—

(1) The clause of this contract entitled "Utilization Of Small Business Concerns;" or

(2) An approved plan required by this clause, shall be a material breach of the contract.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian Tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports.



(1) ISR. This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR [19.704\(c\)](#), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(iii) The authority to acknowledge receipt or reject the ISR resides—

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) SSR.

(i) Reports submitted under individual contract plans—

(A) This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracts.

(B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis.

(C) If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over \$700,000 (over \$1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors.

(D) The consolidated SSR shall be submitted annually for the twelve month period ending September 30. The report is due 30 days after the close of each reporting period.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) Reports submitted under a commercial plan—

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(End of clause)

## CLAUSES INCORPORATED BY FULL TEXT

### 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 Contracting Officer, Naval Facilities Engineering Command Southwest, Capital Improvements Acquisition Core, 1220 Pacific Highway, Building 127, San Diego, CA 92132-5190

(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)

## CLAUSES INCORPORATED BY FULL TEXT

### 52.236-28 PREPARATION OF PROPOSALS--CONSTRUCTION (OCT 1997)

(a) Proposals must be (1) submitted on the forms furnished by the Government or on copies of those forms, and (2) manually signed. The person signing a proposal must initial each erasure or change appearing on any proposal form.

(b) The proposal form may require offerors to submit proposed prices for one or more items on various bases, including--

(1) Lump sum price;

(2) Alternate prices;

(3) Units of construction; or

(4) Any combination of paragraphs (b)(1) through (b)(3) of this provision.

(c) If the solicitation requires submission of a proposal on all items, failure to do so may result in the proposal being rejected without further consideration. If a proposal on all items is not required, offerors should insert the words “no proposal” in the space provided for any item on which no price is submitted.

(d) Alternate proposals will not be considered unless this solicitation authorizes their submission.

(End of provision)

#### CLAUSES INCORPORATED BY FULL TEXT

##### 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/far/>

(End of provision)

##### 252.239-7017 NOTICE OF SUPPLY CHAIN RISK (FEB 2019) (DEVIATION 2018-O0020)

(a) Definition. As used in this provision—

“Supply chain risk,” means the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a covered system so as to surveil, deny, disrupt, or otherwise degrade the function, use, or operation of such system (see 10 U.S.C. 2339a).

(b) In order to manage supply chain risk, the Government may use the authorities provided by 10 U.S.C. 2339a. In exercising these authorities, the Government may consider information, public and non-public, including all-source intelligence, relating to an offeror and its supply chain.

(c) If the Government exercises the authority provided in 10 U.S.C. 2339a to limit disclosure of information, no action undertaken by the Government under such authority shall be subject to review in a bid protest before the Government Accountability Office or in any Federal court.

(End of provision)

##### 252.239-7018 SUPPLY CHAIN RISK (FEB 2019) (DEVIATION 2018-O0020)

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

“Information technology” (see 40 U.S.C 11101(6)) means, in lieu of the definition at FAR 2.1, any equipment, or interconnected system(s) or subsystem(s) of equipment, that is used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency.

(1) For purposes of this definition, equipment is used by an agency if the equipment is used by the agency directly or is used by a contractor under a contract with the agency that requires—

(i) Its use; or

(ii) To a significant extent, its use in the performance of a service or the furnishing of a product.

(2) The term “information technology” includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources.

(3) The term “information technology” does not include any equipment acquired by a contractor incidental to a contract.

“Supply chain risk,” means the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a covered system so as to surveil, deny, disrupt, or otherwise degrade the function, use, or operation of such system (see 10 U.S.C. 2339a).

(b) The Contractor shall mitigate supply chain risk in the provision of supplies and services to the Government.

(c) In order to manage supply chain risk, the Government may use the authorities provided by 10 U.S.C. 2339a. In exercising these authorities, the Government may consider information, public and non-public, including all-source intelligence, relating to a Contractor’s supply chain.

(d) If the Government exercises the authority provided in 10 U.S.C. 2339a to limit disclosure of information, no action undertaken by the Government under such authority shall be subject to review in a bid protest before the Government Accountability Office or in any Federal court.

(End of clause)

## **SECTION 00210 - BASIS OF AWARD**

### **SECTION 00210 - BASIS OF AWARD/EVALUATION FACTORS**

#### **BASIS OF AWARD AND EVALUATION FACTORS**

##### **1. BASIS OF AWARD**

Selection of contractor(s) will be accomplished using Source Selection Procedures on the basis of Best Value to the Government, considering price and other factors combined. Interested firms are expected to review the RFP and participate in a pre-proposal conference and site visit (if conducted), provide proposed prices for the initial project, and provide proposal information requested to evaluate their technical and past performance factors.

The Two Phase Design-Build procedures of FAR 36.3 will be used for this procurement. Phase One of the solicitation is in accordance with FAR Part 36.3. Phase One evaluation will result in a determination of the most highly qualified Offerors. These Offerors will be requested to submit a Phase Two proposal. The maximum

number of Offerors that will be selected to submit a Phase Two proposal is approximately five (5). Phase Two of the solicitation shall require submission of technical and price proposals by the Offerors selected in Phase One, which will be evaluated separately in accordance with Part 15. The Government intends to evaluate proposals and award contract(s) without discussions.

The Government anticipates three or more indefinite delivery indefinite quantity multiple award construction contracts. Offerors are advised that those Offerors who are selected to proceed to Phase Two are not guaranteed receipt of a contract award. Award of the basic indefinite delivery indefinite quantity multiple award construction contracts will be made to two (2) or more responsible small business Offerors and the remaining responsible Offerors whose proposals conforming to the solicitation are determined to be the most advantageous to the Government considering past performance, technical, and price factors. The Government reserves the right to award three or more contracts under this solicitation. The Government reserves the right not to award the Proposed Task Order 0001. The Government reserves the right to substitute or add other design-build projects that meet the scope of the MACC.

The Government reserves the right to reject any or all basic contract offers at any time prior to award; to negotiate with any one or all Offerors; to award the contracts to other than the Offeror submitting the lowest total price; and to award contracts to three or more Offerors submitting proposals determined to represent the best value—the proposals most advantageous to the Government, price and other factors considered.

**OFFERORS ARE ADVISED THAT IT IS DEFINITELY POSSIBLE THAT AN AWARD MAY BE MADE WITHOUT DISCUSSIONS OR ANY CONTACT CONCERNING THE PROPOSALS RECEIVED.**

Therefore, proposals should be submitted initially on the most favorable price and technical terms. Offerors should not assume that they would be contacted or afforded the opportunity to qualify, discuss, or revise their proposal. Firms participating in the pre-proposal conference and site visit (if conducted) will not be compensated for their participation.

Successful Offerors will receive the following contract awards:

The Offeror submitting the proposal, conforming to the RFP, determined to represent the Best Value receives award with a minimum guarantee and the initial project, if the Government chooses to award it. Second, third, and any additional selected contractor will each receive award with a minimum guarantee, and selection will be based on the same criteria as the first selection.

## **2. DEFINITIONS**

**DEFICIENCY:** 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.

**WEAKNESS:** A flaw in the proposal that increases the risk of unsuccessful contract performance.

**SIGNIFICANT WEAKNESS:** A flaw in the proposal that appreciably increases the risk of unsuccessful contract performance.

**STRENGTH:** An aspect of a proposal that has merit or exceeds specified performance or capability requirements in a way that will be advantageous to the Government during contract performance.

**ACCEPTABLE FEATURES:** A proposed method or technique in the proposal that addresses solicitation requirements such that no further explanation or documentation is necessary.

**PAST PERFORMANCE:** Relates to how well an Offeror and Offeror's Team has performed; e.g., the quality of work accomplished, schedule compliance, customer satisfaction.

**EXPERIENCE**: Pertains to work performed by an Offeror and Offeror's Team, within the prescribed timeframe, which is the same or similar to the work that may be ordered under this contract in terms of size, scope, and complexity. Experience is distinct from past performance (how well an Offeror has performed).

**SUSTAINABLE FEATURES**: Features in the design, construction, and operation of facilities with the goal of conserving resources and minimizing adverse effects on the environment while enhancing occupant productivity, minimizing energy use, improving quality and durability of materials, increasing recycling and use of recycled products, waste reduction, etc. Relevant sustainable features are those that are the same or similar to those recognized by Third Party Certification entities.

**PROJECT**: A design-build or design-bid-build construction activity or task, with a single starting point and a single ending point.

**COMBINED PROJECT(S)**: Projects with multiple starting and ending points, performed under separate task orders, delivery orders, or multiple contracts combined in a single description. No credit will be given for work performed under MACC/IDIQ contracts in the aggregate or for multiple projects completed under more than one task/delivery order.

**RENOVATION, REPAIR, ALTERATION PROJECT TYPES**: Refers to renovation, alteration, and repair type projects refers to projects where the work modifies existing facilities.

**NEW CONSTRUCTION**: Refers to creating entirely new facilities (or new expansions to existing systems where major components are provided as part of the expansion).

**100% COMPLETE**:

For construction projects: The facility is completely constructed and ready for the intended use.

For design projects: 100% plans and specifications signed off by an Architect-Engineer and ready for construction with final cost estimate. Does not include any Post Construction Award Support (PCAS).

**OFFEROR**: Refers to the Contractor submitting the proposal as Offeror, including joint ventures, whose name and address appears in Block 14 of Standard Form (SF) 1442 (Solicitation, Offer and Award). In the event of a conflict or inconsistency between the Offeror's name and address cited on the SF 1442 and any other part of the proposal, the SF 1442 is the conclusive document in determining the Offeror who is submitting the proposal.

**OFFEROR'S TEAM**: Refers to the Offeror (see definition), the Offeror's outside Lead Design Firm, and/or in-house Lead Designer(s) only; does not include subcontractors or consultants.

**LEAD DESIGN FIRM / DESIGN TEAM**: Applies to the Offeror's primary design firm(s) and any in-house lead designer(s).

**JOINT VENTURE (JV)**: A legal business entity formed between two or more companies (parties) to undertake the performance activities of a contract together. This does not include other arrangements such as "teaming agreement" or "strategic alliance," which are not recognized as bona fide joint ventures for the purposes of this solicitation.

**SEVEN-YEAR PERIOD**: The prescribed timeframe for this solicitation that refers to the period of time for which projects may be submitted for experience or past performance. The seven-year period is calculated by counting back seven years from the initial RFP issuance date.

**DESIGN-BUILD**: Refers to combining design and construction in a single contract with one contractor. Design-build projects require design of the project by a licensed professional (i.e. engineer, architect). Projects that only require shop drawing level effort are not design-build projects.

**DESIGN-BID-BUILD:** Refers to the traditional delivery method where design and construction are sequential and contracted for separately, with two separate contracts and contractors; one for an A-E contract and one for a construction contract.

**SELF-PERFORM:** Refers to performing relevant and major construction trade work in-house without subcontractors. This does not include project administration or management functions (such as quality control or safety program) and miscellaneous work (such as housekeeping or cleanup). Relevant and major construction trade work is that which is the same or similar to the work that may be ordered under this contract.

**PAGE:** Refers to one printed side of a piece of paper. (For example, 5 pieces of paper printed on both sides would result in 10 pages of narrative.)

### **3. RELATIVE IMPORTANCE OF THE EVALUATION FACTORS**

The relative importance of the evaluation factors is as follows:

- a. Phase One: Phase One shall consist of Factors 1, 2, and 3. Factor 1 (Technical Approach) will be rated as either Acceptable or Unacceptable. If an Offeror is rated Unacceptable for Factor 1, they will not be invited to participate in Phase Two. Factors 2 and 3 are of equal importance to each other.
- b. Phase Two: In making the best value award decision in Phase Two, Factors 2 through 6 and price will be considered. The technical factors (2, 4, 5, and 6) are of equal importance to each other, respectively, and when combined are of equal importance to the performance confidence assessment (Factor 3, Past Performance). The combined non-price factors are approximately equal to price. The importance of price will increase if the Offerors' non-price proposals are considered essentially equal in terms of overall quality, or if price is so high as to significantly diminish the value of a non-price proposal's superiority to the Government. Award will be made to the responsible Offeror(s) whose offer conforms to the solicitation and represents the best value to the Government, price and non-price factors considered.

According to FAR 15.304, the evaluation factors that apply to this acquisition are a part of this RFP and are evaluated individually. The applicable evaluation factors and submission requirements are identified below.

### **4. EVALUATION FACTORS**

The evaluation factors for this procurement are:

- a. **Proposal Submission Requirements:**

The composition and management of the firms proposed as the design-build (DB) team for this contract will be evaluated in this factor.

The Offeror shall submit the following information under **Tab "1"**:

- (1) Using **Exhibit "A"** (Offeror Team Composition and Management), provide a technical approach narrative describing the proposed primary construction firm(s) and primary design firm(s) for this contract and the rationale for proposing this arrangement. Provide the role, responsibilities, and contractual relationships between the various firms (see FAR Subpart 9.6). On a separate sheet, include a simple organizational chart that clearly identifies the lines of authority between the entities. If the experience of an entity is being claimed in Factor 2, that entity must be named in the above narrative and organizational chart.

The technical approach narrative (Exhibit A) shall be limited to one (1) double-sided page (or two (2) single-sided pages), exclusive of the organizational chart. The information requested in item (2) below is not included in this page limitation.

- (2) In addition to the narrative, the Offeror shall submit a signed copy of any joint venture agreement, partnership agreement, teaming agreement, approved mentor-protégé agreement (MPA), or letter of commitment for each member of the Offeror's Team identified above (e.g., joint venture member, partner, team member, parent company, subsidiary, or other affiliated company, etc.), and for any subcontractors that will be proposed as completing work under the technical approach, submit a letter of commitment. If the Offeror is proposing as a Mentor-Protégé joint venture, the Offeror shall submit the SBA approved mentor protégé joint venture agreement with the SBA approval letter of the mentor protégé agreement and any subsequent extensions.

b. Basis of Evaluation:

The assessment of the Offeror's technical approach will be used as a means to evaluate the organizational structure and teaming relationships proposed by the Offeror. This factor will be rated on an Acceptable or Unacceptable basis.

**FACTOR 2: EXPERIENCE** (See definition)

a. Proposal Submission Requirements:

Submit **Exhibit "B"** (Construction & Design Experience Project Data Sheet) under **Tab "2."**

(1) Construction Experience:

Submit a maximum of five (5) relevant construction projects for the Offeror that best demonstrate your self-performed (see definition) experience on projects that are similar in size, scope, and complexity to projects that may be ordered under this contract.

For purposes of this evaluation, relevant projects are further defined as new construction, repair, and/or renovation of waterfront facilities, by design-build or design-bid-build, with a construction cost of \$50,000 or more.

Examples of relevant construction projects are construction projects similar in scope to: piers, wharves, quay walls, magnetic silencing facilities, bulkheads, sea walls, dry docks, boat ramps, docks and marinas, shore protection systems, rip rap, breakwaters, wave attenuation, mooring dolphins, buoys, primary and secondary fendering, pile driving, sheet piles, camels, separators, brows, gangways, dredging and disposal, all utilities for marine operations and other waterfront structures (both in and above water) related to waterfront operations (such as unexploded ordinance, crane rails, security, all applicable Federal, State, and local regulatory/environmental requirements, etc.) to support Navy vessels and port operations.

Additional minimum submission requirements:

- At least one (1) relevant self-performed project with a construction cost of \$5,000,000 or above.
- At least one (1) relevant self-performed project that demonstrates the Offeror's experience in dredging and disposal of dredge material.
- At least one (1) relevant self-performed project that demonstrates the Offeror's experience in new construction of or repairs to a concrete pier or wharf.
- At least one (1) relevant self-performed project that demonstrates the Offeror's experience in driving structural or fender piles.
- At least one (1) relevant self-performed project that demonstrate the Offeror's experience in design-build (see definition) construction.

Note: A single project may satisfy more than one of the above minimum requirements.



Exhibit “B” must clearly address how the project meets the above requirements.

Projects submitted for the Offeror shall be 100% complete (see definition) within the past seven (7) years of the date of issuance of this RFP.

A project is defined as a construction project performed under a single task order or contract. For multiple award and indefinite delivery/indefinite quantity type contracts, the contract as a whole shall not be submitted as a project; rather Offerors shall submit the work performed under a task order as a project.

The attached Construction & Design Experience Project Data Sheet (Exhibit “B”) is MANDATORY and SHALL be used to submit project information. If the same project is being used to demonstrate construction and design experience, submit separate Project Data Sheet forms for construction and design. Except as specifically requested, the Government will not consider information submitted in addition to this form. Individual blocks on this form may be expanded; however, total length for each project data sheet shall not exceed one (1) double-sided page (or two (2) single-sided pages).

For all submitted projects, the description of the project shall clearly describe the scope of work performed and the relevancy to the project requirements of this RFP (how the project meets the requirements listed above). In addition, the description shall also address any sustainable features (see definition) for the project, including specific descriptions of those features. Provide applicable documentation on projects that were validated and/or certified through U.S. Green Building Council (USGBC) or an equivalent organization or process.

If the Offeror is a Joint Venture (JV), relevant project experience should be submitted for projects completed by the Joint Venture entity. If the Joint Venture does not have shared experience, projects shall be submitted for the Joint Venture members. Offerors who fail to submit experience for all Joint Venture members may be rated lower. Offerors are still limited to a total of five (5) projects combined.

If an Offeror is utilizing experience information of affiliates/subsidiaries/parent/LLC/LTD member companies (name and address is not exactly as stated on the SF1442), the proposal shall clearly demonstrate that the affiliate/subsidiary/parent/LLC/LTD firm will have meaningful involvement in the performance of this contract. Regarding any such submitted project, if the Offeror fails to demonstrate the affiliate/subsidiary/parent/LLC/LTD firm’s meaningful involvement in the performance of this contract, the project will not be considered relevant and will not be evaluated.

The Offeror may not utilize experience of a subcontractor to demonstrate construction experience under this evaluation factor.

## (2) Design Experience:

Submit a maximum of five (5) relevant design projects for the design team that best demonstrate design experience on projects that are similar in size, scope, and complexity to projects that may be ordered under this contract. The relevant scope of work shall have been performed by the proposed design firm(s). Failure to submit relevant projects for all proposed Lead Design Firms (see definition) **may** result in a lower rating for this factor.

For purposes of this evaluation, relevant projects are further defined as new construction, repair, and/or renovation of waterfront facilities, by design-build or design-bid-build, with a construction cost of \$50,000 or more.

Examples of relevant design projects are design projects similar in scope to: piers, wharves, quay walls, magnetic silencing facilities, bulkheads, sea walls, dry docks, boat ramps, docks and marinas, shore protection systems, rip rap, breakwaters, wave attenuation, mooring dolphins, buoys, primary and secondary fendering, pile driving, sheet piles, camels, separators, brows, gangways, dredging and disposal,

all utilities for marine operations and other waterfront structures (both in and above water) related to waterfront operations (such as unexploded ordinance, crane rails, security, all applicable Federal, State, and local regulatory/environmental requirements, etc.) to support Navy vessels and port operations.

Additional minimum submission requirements:

- At least one (1) relevant design project shall have a construction cost of \$5,000,000 or above.
- At least one (1) relevant design project shall demonstrate the design team's experience in design for the new construction of or repairs to a concrete pier or wharf.
- At least one (1) relevant design project shall demonstrate the design team's experience in design of a structural or fender pile system.
- At least one (1) relevant design project shall demonstrate the design team's experience in design-build (see definition) construction.

Note: A single project may satisfy more than one of the above minimum requirements.

Exhibit "B" must clearly address how the project meets the above requirements.

Projects submitted for the design team shall be 100% complete (see definition) within the past seven (7) years of the date of issuance of this RFP. For design-build projects, the design portion of the contract shall have been completed within the past seven (7) years of the date of issuance of this RFP. The design completion date shall reflect the date that plans and specifications were complete, signed off by an Architect-Engineer, and approved for construction, and does not include architect/engineering services during construction.

A project is defined as a complete design effort performed under a single task order or contract/subcontract. For multiple award and indefinite delivery/indefinite quantity type contracts, the contract as a whole shall not be submitted as a project; rather Offerors shall submit the work performed under a task order as a project.

The attached Construction & Design Experience Project Data Sheet (Exhibit "B") is MANDATORY and SHALL be used to submit project information. If the same project is being used to demonstrate construction and design experience, submit separate Project Data Sheet forms for construction and design. Except as specifically requested, the Government will not consider information submitted in addition to this form. Individual blocks on this form may be expanded; however, total length for each project data sheet shall not exceed one (1) double-sided page (or two (2) single-sided pages).

For all submitted projects, the description of the project shall clearly describe the scope of work performed and the relevancy to the project requirements of this RFP (how the project meets the requirements listed above). In addition, the description shall also address any sustainable features (see definition) for the project, including specific descriptions of those features. Provide applicable documentation on projects that were validated and/or certified through USGBC or an equivalent organization or process.

If an Offeror is utilizing experience information of affiliates/subsidiaries/parent/LLC/LTD member companies (name and address is not exactly as stated on the SF1442), the proposal shall clearly demonstrate that the affiliate/subsidiary/parent/LLC/LTD firm will have meaningful involvement in the performance of this contract. Regarding any such submitted project, if the Offeror fails to demonstrate the affiliate/subsidiary/parent/LLC/LTD firm's meaningful involvement in the performance of this contract, the project will not be considered relevant and will not be evaluated.

The Offeror may utilize experience of design subcontractor(s) to demonstrate design experience under this evaluation factor. The Offeror must provide a supporting joint venture agreement, partnership agreement, teaming agreement, or letter of commitment and an explanation of the meaningful involvement for the design subcontractor for this contract.

b. Basis of Evaluation:

The basis of evaluation will include the Offeror's Team's demonstrated experience and depth of experience in performing relevant construction and design projects as defined in the solicitation submittal requirements. The assessment of the Offeror's Team's relevant experience will be used as a means of evaluating the capability of the Offeror to successfully meet the requirements of the RFP. The Government will only review five (5) projects for construction and five (5) for design. Any projects submitted in excess of the five (5) for Construction Experience and five (5) for Design Experience will not be considered.

Offerors who submit relevant projects where the Offeror and the proposed design firm(s) have previously worked together on design-build projects may be considered more favorably than those that have not worked together.

Relevant projects that demonstrate additional design-build experience beyond the one (1) required design-build project for the Offeror and the one (1) required design-build project for the design team may be considered more favorably than those that do not demonstrate additional design-build experience.

Relevant projects that demonstrate experience with applicable sustainable features (see definition) may be considered more favorably than those that do not demonstrate experience with applicable sustainable features.

### **FACTOR 3: PAST PERFORMANCE**

The evaluation of past performance will include the contractor's history of reasonable and cooperative behavior, commitment to customer satisfaction, record of conforming to specifications and applicable law (i.e., labor standards and safety standards), quality of workmanship, effectiveness of management, record of controlling costs, adherence to schedules, and prior utilization of small business concerns.

#### **a. Proposal Submission Requirements:**

Submit Past Performance Questionnaires (**Exhibit "C"**) and CCASS/ACASS/CPARS evaluations under **Tab "2"** immediately following each of the project data sheets to which they pertain. Submit any other past performance information under **Tab "3."**

If a completed Construction Contractor Appraisal Support System (CCASS) or Contractor Performance Assessment Rating System (CPARS) evaluation is available, it shall be submitted with the proposal for each project included in Factor 2 for construction experience. If a completed AE Contractor Appraisal Support System (ACASS) or CPARS evaluation is available, it shall be submitted with the proposal for each project included in Factor 2 for design experience. If there is not a completed CCASS, ACASS, or CPARS evaluation, submit a Past Performance Questionnaire (**Exhibit "C"**) for each project included in Factor 2 for Construction Experience and for each project included in Factor 2 for Design Experience. The Offeror should provide completed Past Performance Questionnaires (PPQ) in the proposal. Offerors may use PPQs previously submitted for other RFPs, but Offerors must include these in the proposal and shall not incorporate these by reference. However, this does not preclude the Government from utilizing previously submitted relevant PPQ information in the past performance evaluation. If the Offeror is unable to obtain a completed PPQ from a client for a project(s) 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). The Government may make reasonable attempts to contact the client noted for that project(s) to obtain the PPQ information. However, Offerors should follow-up with clients/references to help ensure timely submittal of questionnaires. If the client requests, questionnaires may be submitted directly to the Government's point of contact Chad Slade at [chad.a.slade@navy.mil](mailto:chad.a.slade@navy.mil).

Offerors may provide any information on problems encountered and the corrective actions taken on projects submitted under Factor 2 – Experience. Offerors may also address any adverse past performance issues. Explanations shall not exceed one (1) double-sided page (or two (2) single-sided pages) in total.

The Government reserves the right to contact the references noted for each project included in Factor 2 for verification or additional information. The Government's inability to contact any of the Offeror's references or the references unwillingness to provide the information requested may affect the Government's evaluation of this factor.

Performance award or additional information submitted will not be considered.

All Offerors (both large and small businesses) shall submit, on **Exhibit "D"** (Past Performance – Small Business Utilization) under **Tab "3,"** the requested information for each project submitted in Factor 2 (Experience) in order to validate their prior utilization of small businesses. Past performance information submitted for projects other than those submitted in Factor 2 will not be considered.

- If established goals were not met on any submitted projects, an explanation for each unmet goal is required.

In demonstrating past performance in prior utilization of small businesses, small business Offerors may include for consideration self-performed work, as well as subcontracts they may have awarded to other small businesses.

b. Basis of Evaluation:

This evaluation focuses on how well the Offeror's Team performed on the recent, relevant projects submitted under Factor 2 – Experience. In addition to the above, the Government reserves the right to obtain information for use in the evaluation of past performance from any and all sources including sources outside of the Government. Other sources may include, but are not limited to, past performance information retrieved through the Past Performance Information Retrieval System (PPIRS) using all CAGE/DUNS numbers of Contractors who are part of a partnership or joint venture identified in the Offeror's proposal, 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.

The Government will consider the recency and relevance of the information, the source of the information, context of the data, and general trends in the Contractor's and design firm's performance. This evaluation is separate and distinct from the Contracting Officer's responsibility determination. The assessment of the Offeror's Team's past performance will be used as a means of evaluating the Offeror's Team's probability to successfully meet the requirements of the RFP.

With respect to relevancy, past performance of greater relevancy will have more influence on the past performance confidence assessment than past performance of lesser relevance.

Offerors lacking relevant past performance history will not be evaluated favorably or unfavorably in past performance and will receive a Neutral Confidence rating.

The Government is seeking to determine whether the Offeror has consistently demonstrated a commitment to utilize Small Business (SB) concerns, including Small Disadvantaged Business (SDB), Woman-Owned Small Business (WOSB), Historically Underutilized Business Zone Small Business (HUBZone SB), Veteran-Owned Small Business (VOSB), and Service-Disabled Veteran-Owned Small Business (SDVOSB) concerns; and, if applicable, Historically Black Colleges and Universities/Minority Institutions (HBCU/MI) and Alaska Native Corporations (ANCs) and Indian Tribes.

The basis of evaluation will include the extent to which the Offeror has utilized small businesses in the listed socioeconomic categories when awarding subcontracts, as well as their efforts and successes in compliance with established small business subcontracting goals (if applicable), on the recent, relevant projects submitted under Factor 2 (Experience).

- Proposals that demonstrate strong historical utilization of small businesses, including utilization of all of the various socioeconomic categories (SDB, WOSB, HUBZone SB, VOSB, and SDVOSB) **may** be rated higher.
- Proposals that fail to provide required and complete information **may** be rated lower.

#### 4. PHASE TWO

Basis of Evaluation/Submission Requirements/Criteria Description for Each Factor:

##### FACTOR 4: SAFETY

###### a. Proposal Submission Requirements:

Submit **Exhibit “E”** (Safety Data Sheet / Safety Narrative) under **Tab “4.”** Individual blocks on this form may be expanded.

For a partnership or joint venture, the following submittal requirements are required for each entity that is part of the partnership or joint venture; however, only one safety narrative is required. EMR, DART and TRC rates shall not be submitted for subcontractors.

The Offeror shall submit the following information:

###### (1) Experience Modification Rate (EMR):

For the three (3) previous complete calendar years (2016, 2017, and 2018) worth of data. This rate compares company’s annual losses in insurance claims against its policy premiums. The Offeror may submit an insurance company-provided equivalent rate if no EMR exists. If the Offeror has no EMR or premium, for any year, affirmatively state so and explain why. Any extenuating circumstances that affect the EMR and negative trends shall be addressed as part of the element.

###### (2) OSHA Days Away from Work, Restricted Duty, or Job Transfer (DART) Rate and Total Recordable Case (TRC) Rate:

For the (3) previous complete calendar years (2016, 2017, and 2018) worth of data. If an Offeror cannot submit OSHA DART and TRC rates, for any year, affirmatively state so and explain why. Any extenuating circumstances that affected the OSHA DART and/or TRC rate data and negative trends shall be addressed as part of this element.

###### (3) Technical Approach to Safety:

Describe the plan for safety that will be implemented to evaluate safety performance of potential subcontractors as part of the selection process for all levels of subcontractors. The Offeror shall submit a narrative that fully describes the safety management system that they will use to oversee the safety compliance and performance of self-performed and sub-contractor performed work. The Offeror shall describe any innovative methods that will be employed to ensure and monitor safe work practices at self-performed and all subcontractor levels. Additionally, describe the methodology to execute an effective program that facilitates sound mishap prevention techniques and processes, employee reporting of unsafe conditions, unsafe activities, and near-miss mishaps, including a description of your “Good Catch” Program. A “Good Catch” Program is defined as a program that recognizes and rewards employees for reporting unsafe and/or unhealthful situations and acts to create a climate of trust and safety. The program should also have procedures in place to address deficiencies and unsafe situations immediately and to document those actions accordingly. The technical approach to safety narrative shall be limited to one (1) double-sided page (or two (2) single-sided pages).

b. Basis of Evaluation:

The safety factor evaluation will collectively consider the following three submittal requirements:

(1) Experience Modification Rate (EMR):

The Government will evaluate the EMR to determine if the Offeror has demonstrated a history of safe work practices taking into account any negative trends and extenuating circumstances that impact the rating. Lower EMRs may be given greater weight in the evaluation.

(2) OSHA Days Away from Work, Restricted Duty, or Job Transfer (DART) Rate and Total Recordable Case (TRC) Rate:

The Government will evaluate the OSHA DART and TRC rates to determine if the Offeror has demonstrated a history of safe work practices taking into account any negative trends and extenuating circumstances that impact the rates. Lower OSHA DART and/or TRC Rates may be given greater weight in the evaluation.

(3) Technical Approach to Safety:

The Government will evaluate the degree to which subcontractor safety performance will be considered in the selection of all levels of subcontractors on the upcoming project as well as the degree to which the Offeror's safety management system will ensure safety compliance of self-performed and subcontracted work, including innovative methods to monitor safe work practices. The Government will also evaluate the Offeror's methodology to execute an effective program that facilitates sound mishap prevention techniques/processes, employee reporting of unsafe conditions, unsafe activities, and near-miss mishaps including its "Good Catch" Program. Those Offerors whose plan demonstrates a commitment to hire subcontractors with a culture of safety and who propose innovative methods to enhance a safe working environment may be given greater weight in the evaluation.

While the Government may elect to use other sources of information in evaluating safety to include, but not limited to OSHA, NAVFAC's Contractor Incident Reporting System (CIRS) in Enterprise Safety Applications Management System (ESAMS), Contractor Performance Assessment Reporting System (CPARS) and other related databases, the burden of providing detailed, current, accurate and complete safety information regarding these submittal requirements rests with the Offeror.

**FACTOR 5: TECHNICAL SOLUTION – Based on Proposed Task Order 0001**

a. Proposal Submission Requirements:

Submit the Technical Solution narrative and drawings Based on Proposed Task Order 0001 under **Tab "5."**

Provide a narrative and concept drawings describing the technical solution to the project that meets the requirements of the RFP. Include the following:

- Description of the methodology for construction/repair work involved in the project including but not limited to required testing and material sampling, any subsurface exploration, investigation, study, and/or analysis deemed necessary for construction of the proposed repairs. Include in the narrative a discussion of tidal and environmental effects on the execution of work, and the plan to minimize impact of the construction/repair work on waterfront operations.
- Schematic plan, elevation/section views, and sample details, if applicable. Indicate schematically the major components of the project.

The narrative shall not exceed three (3) double-sided pages (or six (6) single-sided pages). Provide up to two (2) drawings to supplement the narrative, as identified above.

b. Basis of Evaluation:

The Government will evaluate the narrative and conceptual drawings considering the extent to which the Offeror demonstrates a clear understanding of the engineering requirements of the project. The Government will evaluate the Offeror's technical solution to determine adherence to the technical requirements of the RFP.

## FACTOR 6: SMALL BUSINESS PARTICIPATION

It is the policy of the Government to provide maximum practicable opportunities in its acquisitions to Small Business (SB) concerns, including Historically Underutilized Business Zone Small Business (HUBZone SB), Woman-Owned Small Business (WOSB), Small Disadvantaged Business (SDB), Veteran-Owned Small Business (VOSB), Service-Disabled Veteran-Owned Small Business (SDVOSB), and other small business concerns. Further, it is the policy of the Government that such concerns will have the maximum practicable opportunity to participate in contract performance consistent with its efficient performance.

a. Proposal Submission Requirements:

**All** Offerors (both large and small businesses) shall use **Exhibit “F”** (Small Business Participation Plan) to submit (under **Tab “6”**) the following requested information for evaluation of this factor:

- To demonstrate commitment to use small business concerns in the performance of this contract, identify all planned subcontractors by name that will be used to support each specific small business category (i.e., SB, HUBZone SB, WOSB, SDB, VOSB, and SDVOSB). Identify the type of product/service to be subcontracted, the estimated subcontract value, and the type of commitment (i.e., teaming agreement, letter of commitment, etc.) to each subcontractor.
- To demonstrate maximum practicable participation of small businesses, identify (in terms of dollar value and percentage of the total contract value) the Offeror's total proposed small business participation (i.e. work to be performed by small business as the prime contractor and/or work to be performed by small business subcontractors). All Offerors who are not able to meet the minimum total small business participation rate (**20%** of the total contract value) shall provide a detailed explanation why the minimum total small business participation rate cannot be achieved. Offerors are encouraged to exceed this percentage and seek meaningful levels of participation in each of the small business categories (i.e., SB, HUBZone SB, WOSB, SDB, VOSB, and SDVOSB) consistent with efficient contract performance.

If the Offeror does not intend to subcontract, provide a detailed explanation why subcontracting would not result in efficient contract performance.

**Note:** Large business Offerors selected for award shall be required to submit an acceptable Small Business Subcontracting Plan incorporating the proposed subcontract values and small business concerns that are specifically identified in the Offeror's Small Business Participation Plan. The Small Business Subcontracting Plan shall also include small business subcontracting goals that meet or exceed the minimum small business subcontracting targets stated in the table below. If the Offeror fails to negotiate an acceptable subcontracting plan, the Offeror will be ineligible for award.

Minimum Small Business Subcontracting Targets	
	Percentage of Total Subcontracting Value
Small Business (SB):	67.2%
HUBZone Small Business (HUBZone SB):	9.2%

Woman-Owned Small Business (WOSB):	15.8%
Small Disadvantaged Business (SDB):	17.8%
Veteran-Owned Small Business (VOSB):	3.1%
Service-Disabled Veteran-Owned Small Business (SDVOSB):	3.1%

b. Basis of Evaluation:

This factor will be rated on an Acceptable or Unacceptable basis.

**The following will be evaluated on all proposals:**

The Government will evaluate the Offeror's Small Business Participation Plan to determine that the Offeror has identified and demonstrated a commitment to use small business concerns in each specific small business category (i.e., SB, HUBZone SB, WOSB, SDB, VOSB, and SDVOSB) in the performance of this contract.

- Proposals that fail to identify and commit to use small business concerns in the performance of this contract may be rated Unacceptable; however, the Government may take into account reasonable explanations why subcontracting would not result in efficient contract performance.

The Government will also evaluate the Offeror's Small Business Participation Plan to determine that the Offeror has demonstrated the maximum practicable participation of small businesses by meeting or exceeding the solicitation's minimum total small business participation rate (i.e. work to be performed by small business as the prime contractor and/or work to be performed by small business subcontractors). The minimum total small business participation rate for this acquisition is **20%** of the total contract value.

- Large business Offerors may achieve the minimum total small business participation rate through subcontracting to small businesses.
- Small business Offerors may achieve the minimum total small business participation rate through their own performance/participation as a prime and also through a joint venture, teaming arrangement, and/or subcontracting to other small businesses.
- Proposals that fail to demonstrate a total small business participation rate of at least **20%** may be rated Unacceptable; however, the Government may take into account reasonable explanations why the minimum total small business participation rate cannot be achieved.

**FACTOR 7: PRICE – Based on Proposed Task Order 0001**

a. Proposal Submission Requirements:

The Offeror (see definition) shall complete and submit (in a sealed envelope) the following in the order shown below under **Tab "7"** of the original proposal only.

- Standard Form (SF) 1442 (Solicitation, Offer and Award)
- Bid Bond

With regard to price as shown on the SF 1442, the only Contract Line Item that Offerors are to complete is Line Item 0002 of Section 00010 Solicitation for Proposed Task Order 0001.

Failure to submit a Bid Bond conforming to the requirements of the solicitation may result in an Offeror's proposal being rejected as unacceptable.

b. Basis of Evaluation:



The price proposal for Proposed Task Order 0001 will be evaluated to determine the reasonableness and completeness of the Offeror's proposal. The following techniques will be used to ensure a fair and reasonable price:

- Comparison of proposed prices received in response to the solicitation.
- Comparison of proposed prices with the independent Government estimate.

In addition, one or more of the following techniques may also be utilized:

- Comparison of proposed prices with available historical information.
- Comparison of proposed prices with resources proposed.

A price that is found to be unreasonably high in relation to the proposed work may be indicative of an inherent lack of understanding of the solicitation requirements and may result in the overall proposal not being considered for award.

Any inconsistency whether real or apparent, between proposed performance and price must be clearly explained in the price proposal. For example, if unique and innovative approaches are the basis for an apparently unbalanced/inconsistently priced proposal, the nature of these approaches and their impact on price must be completely documented. The burden of proof of price reasonableness rests solely with the Offeror.

**EXHIBITS FOR SUBMISSION REQUIREMENTS ARE PROVIDED AS SEPARATE ATTACHMENTS ON THE FEDERAL BUSINESS OPPORTUNITIES WEBSITE AT <https://www.fbo.gov/>.**

## Section 00600 - Representations &amp; Certifications

## CLAUSES INCORPORATED BY FULL TEXT

## 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2017)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 237990.

(2) The small business size standard is \$39.5M.

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

(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 is not included in this solicitation, and the offeror is currently registered in System for Award Management (SAM), and has completed the Representations and Certifications section of SAM electronically, 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) 52.209-2; Prohibition on Contracting with Inverted Domestic Corporations--Representation.

(vii) 52.209-5; Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(viii) 52.209-11, Representation by Corporations Regarding Elinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.

(ix) 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.

(x) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(xi) 52.219-1, Small Business Program Representations (Basic & Alternate I). 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.

(xii) 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.

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

(xiv) 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.

(xv) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

(xvi) 52.222-57, Representation Regarding Compliance with Labor Laws (Executive Order 13673). This provision applies to solicitations expected to exceed \$50 million which are issued from October 25, 2016 through April 24, 2017, and solicitations expected to exceed \$500,000, which are issued after April 24, 2017.

**Note to paragraph (c)(1)(xvi):** By a court order issued on October 24, 2016, 52.222-57 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

(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 \$77,533, the provision with its Alternate II applies.

(D) If the acquisition value is \$77,533 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:

[Contracting Officer check as appropriate.]

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

  X   (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 via the SAM website accessed through <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 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)

#### 52.204-20 Predecessor of Offeror (JUL 2016)

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

Commercial and Government Entity (CAGE) code means--

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

Predecessor means an entity that is replaced by a successor and includes any predecessors of the predecessor.

Successor means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term "successor" does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

(b) The Offeror represents that it ☐ is or ☐ is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(c) If the Offeror has indicated “is” in paragraph (b) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: \_\_\_\_\_ (or mark “Unknown”).

Predecessor legal name: \_\_\_\_\_.

(Do not use a “doing business as” name).

(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)

#### 252.203-7005 REPRESENTATION RELATING TO COMPENSATION OF FORMER DOD OFFICIALS (NOV 2011)

(a) Definition. Covered DoD official is defined in the clause at 252.203-7000, Requirements Relating to Compensation of Former DoD Officials.

(b) By submission of this offer, the offeror represents, to the best of its knowledge and belief, that all covered DoD officials employed by or otherwise receiving compensation from the offeror, and who are expected to undertake activities on behalf of the offeror for any resulting contract, are presently in compliance with all post-employment restrictions covered by 18 U.S.C. 207, 41 U.S.C. 2101-2107, and 5 CFR parts 2637 and 2641, including Federal Acquisition Regulation 3.104-2.

(End of provision)

#### 252.204-7007 ALTERNATE A, ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2015)

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

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

(i) 252.209-7003, Reserve Officer Training Corps and Military Recruiting on Campus--Representation. Applies to all solicitations with institutions of higher education.

(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) 252.222-7007, Representation Regarding Combating Trafficking in Persons, as prescribed in 222.1771. Applies to solicitations with a value expected to exceed the simplified acquisition threshold.

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

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

(vi) 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.

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

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

(ix) 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.

(e) The offeror has completed the annual representations and certifications electronically via the SAM Web site 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 Clause #	Title	Date	Change

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

(End of provision)

252.219-7000 ADVANCING SMALL BUSINESS GROWTH (SEP 2016)

(a) This provision implements 10 U.S.C. 2419.

(b) The Offeror acknowledges by submission of its offer that by acceptance of the contract resulting from this solicitation, the Offeror may exceed the applicable small business size standard of the North American Industry Classification System (NAICS) code assigned to the contract and would no longer qualify as a small business concern for that NAICS code. (Small business size standards matched to industry NAICS codes are published by the Small Business Administration and are available at <http://www.sba.gov/content/table-small-business-size-standards>.) The Offeror is therefore encouraged to develop the capabilities and characteristics typically desired in contractors that are competitive as other-than-small contractors in this industry.

(c) For procurement technical assistance, the Offeror may contact the nearest Procurement Technical Assistance Center (PTAC). PTAC locations are available at <http://www.dla.mil/HQ/SmallBusiness/PTAC.aspx>.

(End of provision)

## Section 00700 - Contract Clauses

52.216-32

## 52.216-32 Task-Order and Delivery-Order Ombudsman.

As prescribed in 16.506(j), use the following clause: Task-Order and Delivery-Order Ombudsman (Sep 2019)

(a) In accordance with 41 U.S.C. 4106(g), the Agency has designated the following task-order and delivery-order Ombudsman for this contract. The Ombudsman must review complaints from the Contractor concerning all task-order and delivery-order actions for this contract and ensure the Contractor is afforded a fair opportunity for consideration in the award of orders, consistent with the procedures in the contract.

Ms. Cindy Shaver, Deputy Assistant Secretary of the Navy (Acquisition and Procurement), 1000 Navy Pentagon, Washington, DC 20350, phone (703) 614-9600, fax (703) 614-9394, and email to NCAG@navy.mil.

(b) Consulting an ombudsman does not alter or postpone the timeline for any other process (e.g., protests).

(c) Before consulting with the Ombudsman, the Contractor is encouraged to first address complaints with the Contracting Officer for resolution. When requested by the Contractor, the Ombudsman may keep the identity of the concerned party or entity confidential, unless prohibited by law or agency procedure.

(End of clause)

## CLAUSES INCORPORATED BY REFERENCE

52.202-1	Definitions	NOV 2013
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	SEP 2006
52.203-7	Anti-Kickback Procedures	MAY 2014
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	OCT 2010
52.203-13	Contractor Code of Business Ethics and Conduct	OCT 2015
52.203-17	Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights	APR 2014
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements	JAN 2017
52.204-2 Alt II	Security Requirements (Aug 1996) - Alternate II	APR 1984
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	OCT 2018
52.204-13	System for Award Management Maintenance	OCT 2018
52.204-18	Commercial and Government Entity Code Maintenance	JUL 2016
52.204-19	Incorporation by Reference of Representations and Certifications.	DEC 2014
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	OCT 2015
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters	OCT 2018

52.211-2	Availability of Specifications, Standards, and Data Item Descriptions Listed in the Acquisition Streamlining and Standardization Information System (ASSIST)	APR 2014
52.211-6	Brand Name or Equal	AUG 1999
52.211-13	Time Extensions	SEP 2000
52.211-15	Defense Priority And Allocation Requirements	APR 2008
52.211-18	Variation in Estimated Quantity	APR 1984
52.215-1	Instructions to Offerors--Competitive Acquisition	JAN 2017
52.215-2	Audit and Records--Negotiation	OCT 2010
52.215-10	Price Reduction for Defective Certified Cost or Pricing Data	AUG 2011
52.215-11	Price Reduction for Defective Certified Cost or Pricing Data-- Modifications	AUG 2011
52.215-12 (Dev)	Subcontractor Certified Cost or Pricing Data (Deviation 2018-JUL 2018 O0015)	
52.215-13 (Dev)	Subcontractor Certified Cost or Pricing Data - Modifications (Deviation 2018-O0015)	JUL 2018
52.215-15	Pension Adjustments and Asset Reversions	OCT 2010
52.215-17	Waiver of Facilities Capital Cost of Money	OCT 1997
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions	JUL 2005
52.215-19	Notification of Ownership Changes	OCT 1997
52.215-20	Requirements for Certified Cost or Pricing Data or Information Other Than Certified Cost or Pricing Data	OCT 2010
52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data -- Modifications	OCT 2010
52.216-19	Order Limitations	OCT 1995
52.217-3	Evaluation Exclusive Of Options	APR 1984
52.217-4	Evaluation Of Options Exercised At The Time Of Contract Award	JUN 1988
52.217-5	Evaluation Of Options	JUL 1990
52.219-4 (Dev)	Notice of Price Evaluation Preference for HUBZone Small Business Concerns (DEVIATION 2019-O0003).	DEC 2018
52.219-6 (Dev)	Notice of Total Small Business Set-Aside (DEVIATION 2019-O0003).	DEC 2018
52.219-8	Utilization of Small Business Concerns	OCT 2018
52.219-9 (Dev)	Small Business Subcontracting Plan (Deviation 2018-O0018)	AUG 2018
52.219-9 Alt II (Dev)	Small Business Subcontracting Plan (Deviation 2018-O0018) - Alternate II	AUG 2018
52.219-13	Notice of Set-Aside of Orders	NOV 2011
52.219-14 (Dev)	Limitations on Subcontracting (DEVIATION 2019-O0003).	JAN 2019
52.219-16	Liquidated Damages-Subcontracting Plan	JAN 1999
52.219-28	Post-Award Small Business Program Rerepresentation	JUL 2013
52.222-1	Notice To The Government Of Labor Disputes	FEB 1997
52.222-3	Convict Labor	JUN 2003
52.222-4	Contract Work Hours and Safety Standards - Overtime Compensation	MAY 2018
52.222-5	Construction Wage Rate Requirements--Secondary Site of the Work	MAY 2014
52.222-6	Construction Wage Rate Requirements	AUG 2018
52.222-7	Withholding of Funds	MAY 2014
52.222-8	Payrolls and Basic Records	AUG 2018
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
52.222-22	Previous Contracts And Compliance Reports	FEB 1999
52.222-26	Equal Opportunity	SEP 2016
52.222-27	Affirmative Action Compliance Requirements for Construction	APR 2015
52.222-35	Equal Opportunity for Veterans	OCT 2015
52.222-36	Equal Opportunity for Workers with Disabilities	JUL 2014
52.222-37	Employment Reports on Veterans	FEB 2016
52.222-40	Notification of Employee Rights Under the National Labor Relations Act	DEC 2010
52.222-50	Combating Trafficking in Persons	JAN 2019
52.222-54	Employment Eligibility Verification	OCT 2015
52.222-55	Minimum Wages Under Executive Order 13658	DEC 2015
52.222-62	Paid Sick Leave Under Executive Order 13706	JAN 2017
52.223-2	Affirmative Procurement of Biobased Products Under Service and Construction Contracts	SEP 2013
52.223-3	Hazardous Material Identification And Material Safety Data	JAN 1997
52.223-5	Pollution Prevention and Right-to-Know Information	MAY 2011
52.223-6	Drug-Free Workplace	MAY 2001
52.223-11	Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons.	JUN 2016
52.223-12	Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners.	JUN 2016
52.223-15	Energy Efficiency in Energy-Consuming Products	DEC 2007
52.223-17	Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts	AUG 2018
52.223-18	Encouraging Contractor Policies To Ban Text Messaging While Driving	AUG 2011
52.223-20	Aerosols	JUN 2016
52.223-21	Foams	JUN 2016
52.225-10	Notice of Buy American Requirement--Construction Materials	MAY 2014
52.225-10 Alt I	Notice of Buy American Requirement--Construction Materials (Feb 2009) Alternate I	MAY 2014
52.225-12	Notice of Buy American Requirement - Construction Materials Under Trade Agreements	MAY 2014
52.225-12 Alt I	Notice of Buy American Requirement - Construction Materials Under Trade Trade Agreements (Feb 2009) - Alternate I	MAY 2014
52.225-12 Alt II	Notice of Buy American Requirement--Construction Materials Under Trade Agreements (MAY 2014) Alternate II	JUN 2009
52.225-13	Restrictions on Certain Foreign Purchases	JUN 2008
52.225-25	Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-- Representation and Certifications.	AUG 2018
52.226-1	Utilization Of Indian Organizations And Indian-Owned Economic Enterprises	JUN 2000
52.227-1	Authorization and Consent	DEC 2007
52.227-2	Notice And Assistance Regarding Patent And Copyright Infringement	DEC 2007
52.227-4	Patent Indemnity-Construction Contracts	DEC 2007

52.227-17	Rights In Data-Special Works	DEC 2007
52.227-23	Rights to Proposal Data (Technical)	JUN 1987
52.228-2	Additional Bond Security	OCT 1997
52.228-5	Insurance - Work On A Government Installation	JAN 1997
52.228-11	Pledges Of Assets	AUG 2018
52.228-12	Prospective Subcontractor Requests for Bonds	MAY 2014
52.228-14	Irrevocable Letter of Credit	NOV 2014
52.228-15	Performance and Payment Bonds--Construction	OCT 2010
52.229-3	Federal, State And Local Taxes	FEB 2013
52.232-17	Interest	MAY 2014
52.232-18	Availability Of Funds	APR 1984
52.232-23	Assignment Of Claims	MAY 2014
52.232-37	Multiple Payment Arrangements	MAY 1999
52.232-39	Unenforceability of Unauthorized Obligations	JUN 2013
52.233-1	Disputes	MAY 2014
52.233-1 Alt I	Disputes (May 2014) - Alternate I	DEC 1991
52.233-3	Protest After Award	AUG 1996
52.233-4	Applicable Law for Breach of Contract Claim	OCT 2004
52.236-2	Differing Site Conditions	APR 1984
52.236-3	Site Investigation and Conditions Affecting the Work	APR 1984
52.236-5	Material and Workmanship	APR 1984
52.236-6	Superintendence by the Contractor	APR 1984
52.236-7	Permits and Responsibilities	NOV 1991
52.236-8	Other Contracts	APR 1984
52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements	APR 1984
52.236-10	Operations and Storage Areas	APR 1984
52.236-11	Use and Possession Prior to Completion	APR 1984
52.236-12	Cleaning Up	APR 1984
52.236-13	Accident Prevention	NOV 1991
52.236-13 Alt I	Accident Prevention (Nov 1991) - Alternate I	NOV 1991
52.236-14	Availability and Use of Utility Services	APR 1984
52.236-15	Schedules for Construction Contracts	APR 1984
52.236-16	Quantity Surveys	APR 1984
52.236-16 Alt I	Quantity Surveys (Apr 1984) - Alternate I	APR 1984
52.236-17	Layout of Work	APR 1984
52.236-21	Specifications and Drawings for Construction	FEB 1997
52.236-21 Alt I	Specifications and Drawings for Construction (Feb 1997) - Alternate I	APR 1984
52.236-23	Responsibility of the Architect-Engineer Contractor	APR 1984
52.236-24	Work Oversight in Architect-Engineer Contracts	APR 1984
52.236-25	Requirements for Registration of Designers	JUN 2003
52.236-26	Preconstruction Conference	FEB 1995
52.236-27	Site Visit (Construction)	FEB 1995
52.236-27 Alt I	Site Visit (Construction) (Feb 1995) - Alternate I	FEB 1995
52.236-28	Preparation of Proposals--Construction	OCT 1997
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 Items	AUG 2019
52.245-1	Government Property	JAN 2017
52.245-9	Use And Charges	APR 2012
52.246-12	Inspection of Construction	AUG 1996
52.247-63	Preference For U.S. Flag Air Carriers	JUN 2003

52.247-64	Preference for Privately Owned U.S. - Flag Commercial Vessels	FEB 2006
52.247-64 Alt I	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) - Alternate I	APR 2003
52.248-3	Value Engineering-Construction	OCT 2015
52.248-3 Alt I	Value Engineering-Construction (Oct 2015) - Alternate I	APR 1984
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
52.251-1	Government Supply Sources	APR 2012
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
252.203-7005	Representation Relating to Compensation of Former DoD Officials	NOV 2011
252.204-7000	Disclosure Of Information	OCT 2016
252.204-7003	Control Of Government Personnel Work Product	APR 1992
252.204-7005	Oral Attestation of Security Responsibilities	NOV 2001
252.204-7006	Billing Instructions	OCT 2005
252.204-7008	Compliance With Safeguarding Covered Defense Information Controls	OCT 2016
252.204-7009	Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information	OCT 2016
252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting	OCT 2016
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
252.211-7007	Reporting of Government-Furnished Property	AUG 2012
252.215-7000	Pricing Adjustments	DEC 2012
252.219-7003	Small Business Subcontracting Plan (DOD Contracts)	MAY 2019
252.223-7001	Hazard Warning Labels	DEC 1991
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
252.225-7008	Restriction on Acquisition of Specialty Metals	MAR 2013
252.225-7012	Preference For Certain Domestic Commodities	DEC 2017
252.225-7016	Restriction On Acquisition Of Ball and Roller Bearings	JUN 2011
252.225-7017	Photovoltaic Devices	AUG 2019
252.225-7018	Photovoltaic Devices--Certificate	DEC 2018
252.225-7030	Restriction On Acquisition Of Carbon, Alloy, And Armor Steel Plate	DEC 2006
252.225-7031	Secondary Arab Boycott Of Israel	JUN 2005
252.227-7013	Rights in Technical Data--Noncommercial Items	FEB 2014
252.227-7022	Government Rights (Unlimited)	MAR 1979
252.227-7023	Drawings and Other Data to become Property of Government	MAR 1979
252.227-7024	Notice and Approval of Restricted Designs	APR 1984

252.227-7033	Rights in Shop Drawings	APR 1966
252.231-7000	Supplemental Cost Principles	DEC 1991
252.232-7003	Electronic Submission of Payment Requests and Receiving Reports	DEC 2018
252.232-7010	Levies on Contract Payments	DEC 2006
252.236-7000	Modification Proposals-Price Breakdown	DEC 1991
252.236-7002	Obstruction of Navigable Waterways	DEC 1991
252.236-7005	Airfield Safety Precautions	DEC 1991
252.236-7006	Cost Limitation	JAN 1997
252.236-7007	Additive or Deductive Items	DEC 1991
252.236-7008	Contract Prices-Bidding Schedules	DEC 1991
252.242-7004	Material Management And Accounting System	MAY 2011
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	JUN 2013
252.245-7000	Government-Furnished Mapping, Charting, and Geodesy Property	APR 2012
252.245-7001	Tagging, Labeling, and Marking of Government-Furnished Property	APR 2012
252.245-7002	Reporting Loss of Government Property	DEC 2017
252.245-7003	Contractor Property Management System Administration	APR 2012
252.245-7004	Reporting, Reutilization, and Disposal	DEC 2017
252.246-7003	Notification of Potential Safety Issues	JUN 2013
252.246-7004	Safety of Facilities, Infrastructure, and Equipment for Military Operations	OCT 2010
252.246-7008	Sources of Electronic Parts	MAY 2018
252.247-7023	Transportation of Supplies by Sea	FEB 2019

#### CLAUSES INCORPORATED BY FULL TEXT

#### 52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (OCT 2018)

(a) Definitions. As used in this clause:

Executive means officers, managing partners, or any other employees in management positions.

First-tier subcontract means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

Month of award means the month in which a contract is signed by the Contracting Officer or the month in which a first-tier subcontract is signed by the Contractor.

Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(1) Salary and bonus.

(2) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board's Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.

(3) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

(5) Above-market earnings on deferred compensation which is not tax-qualified.

(6) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

(b) Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.

(c) Nothing in this clause requires the disclosure of classified information.

(d)(1) Executive compensation of the prime contractor. As a part of its annual registration requirement in the System for Award Management (SAM) (FAR provision 52.204-7), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if—

(i) In the Contractor's preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

(2) First-tier subcontract information. Unless otherwise directed by the contracting officer, or as provided in paragraph (g) of this clause, by the end of the month following the month of award of a first-tier subcontract with a value of \$30,000 or more, the Contractor shall report the following information at <http://www.fsr.gov> for that first-tier subcontract. (The Contractor shall follow the instructions at <http://www.fsr.gov> to report the data.)



(i) Unique entity identifier for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(vi) Subcontract number (the subcontract number assigned by the Contractor).

(vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(ix) The prime contract number, and order number if applicable.

(x) Awarding agency name and code.

(xi) Funding agency name and code.

(xii) Government contracting office code.

(xiii) Treasury account symbol (TAS) as reported in FPDS.

(xiv) The applicable North American Industry Classification System code (NAICS).

(3) Executive compensation of the first-tier subcontractor.

Unless otherwise directed by the Contracting Officer, by the end of the month following the month of award of a first-tier subcontract with a value of \$30,000 or more, and annually thereafter (calculated from the prime contract award date), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for that first-tier subcontractor for the first-tier subcontractor's preceding completed fiscal year at <http://www.fsr.gov>, if—

(i) In the subcontractor's preceding fiscal year, the subcontractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

(e) The Contractor shall not split or break down first-tier subcontract awards to a value less than \$30,000 to avoid the reporting requirements in paragraph (d) of this clause.

(f) The Contractor is required to report information on a first-tier subcontract covered by paragraph (d) when the subcontract is awarded. Continued reporting on the same subcontract is not required unless one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after the first-tier subcontract expires.

(g)(1) If the Contractor in the previous tax year had gross income, from all sources, under \$300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under \$300,000, the Contractor does not need to report awards for that subcontractor.

(h) The FSRS database at <http://www.fsrs.gov> will be prepopulated with some information from SAM and the FPDS database. If FPDS information is incorrect, the contractor should notify the contracting officer. If the SAM information is incorrect, the contractor is responsible for correcting this information.

(End of clause)

## CLAUSES INCORPORATED BY FULL TEXT

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

The Contractor shall be required to (a) commence work under this contract within 15 calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than . \* The time stated for completion shall include final cleanup of the premises.

\*The Contracting Officer shall specify either a number of days after the date the contractor receives the notice to proceed, or a calendar date.

(End of clause)

**\* See individual task order for specific information**

## CLAUSES INCORPORATED BY FULL TEXT

### 52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984) - ALTERNATE I (APR 1984) \*

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

\*The Contracting Officer shall specify either a number of days after the date the contractor receives the notice to

proceed, or a calendar date.

The completion date is based on the assumption that the successful offeror will receive the notice to proceed by (Contracting Officer insert date) . The completion date will be extended by the number of calendar days after the above date that the Contractor receives the notice to proceed, except to the extent that the delay in issuance of the notice to proceed results from the failure of the Contractor to execute the contract and give the required performance and payment bonds within the time specified in the offer.

(End of clause)

**\* See individual task order for specific date**

## CLAUSES INCORPORATED BY FULL TEXT

### 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 \$ \* 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)

**\* See individual task order for specific information**

## CLAUSES INCORPORATED BY FULL TEXT

### 52.211-14 NOTICE OF PRIORITY RATING FOR NATIONAL DEFENSE, EMERGENCY PREPAREDNESS, AND ENERGY PROGRAM USE (APR 2008)

Any contract awarded as a result of this solicitation will be DX rated order; **X** DO rated order certified for national defense, emergency preparedness, and energy program use under the Defense Priorities and Allocations System (DPAS) (15 CFR 700), and the Contractor will be required to follow all of the requirements of this regulation.

(End of provision)

## CLAUSES INCORPORATED BY FULL TEXT

### 52.216-22 INDEFINITE QUANTITY. (OCT 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in

the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum". The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum".

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after **sixty (60) months**.

(End of clause)

## CLAUSES INCORPORATED BY FULL TEXT

### 52.217-6 OPTION FOR INCREASED QUANTITY (MAR 1989)

The Government may increase the quantity of supplies called for in the Schedule at the unit price specified. The Contracting Officer may exercise the option by written notice to the Contractor within **\***. Delivery of the added items shall continue at the same rate as the like items called for under the contract, unless the parties otherwise agree.

(End of clause)

**\* See individual task order for specific information**

## CLAUSES INCORPORATED BY FULL TEXT

### 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 **\***. 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)

**\* See individual task order for specific information**

## CLAUSES INCORPORATED BY FULL TEXT

## 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)\*

(a) The Government may extend the term of this contract by written notice to the Contractor within **the performance period**; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least **sixty (60) days** before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed **sixty (60) months**.

(End of clause)

**\* The sixty days and sixty months apply to the basic contract only. Each individual task order will include specific information as applicable.**

## 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
*	**

\* If a goal is not found in the table, it shall be specified in the task order

\*\* The goal for women is 6.9% for the entire country

COUNTY	MINORITY PARTICIPATION (%)
<b>CALIFORNIA</b>	
<b>SAN DIEGO</b>	<b>16.9</b>
<b>LOS ANGELES</b>	<b>28.3</b>
<b>ORANGE</b>	<b>11.9</b>
<b>SAN BERNARDINO</b>	<b>19</b>
<b>IMPERIAL</b>	<b>16.2</b>
<b>RIVERSIDE</b>	<b>19</b>
<b>VENTURA</b>	<b>21.5</b>
<b>MONO</b>	<b>24.6</b>
<b>FRESNO</b>	<b>26.1</b>
<b>INYO</b>	<b>24.6</b>
<b>SANTA CLARA</b>	<b>19.6</b>
<b>KINGS</b>	<b>23.6</b>
<b>SAN FRANCISCO</b>	<b>25.6</b>
<b>SOLANO</b>	<b>17.1</b>

<b>MONTEREY</b>	<b>28.9</b>
<b><u>ARIZONA</u></b>	
<b>YUMA</b>	<b>19.6</b>
<b>MARICOPA</b>	<b>15.8</b>
<b>TUCSON</b>	<b>24.1</b>
<b>COCONINO</b>	<b>19.6</b>
<b><u>COLORADO</u></b>	
<b>DENVER/BOULDER</b>	<b>13.8</b>
<b>FORT COLLINS</b>	<b>6.9</b>
<b>GREELEY</b>	<b>13.1</b>
<b>COLORADO SPRINGS</b>	<b>10.9</b>
<b>PUEBLO</b>	<b>27.5</b>
<b><u>NEVADA</u></b>	
<b>CLARK COUNTY</b>	<b>13.9</b>
<b>CHURCHILL</b>	<b>9.2</b>
<b><u>NEW MEXICO</u></b>	
<b>SOCCORO</b>	<b>45.9</b>
<b><u>UTAH</u></b>	
<b>PROVO-OREM</b>	<b>2.4</b>
<b>SALT LAKE CITY</b>	<b>6.0</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 **the area of responsibility covered by this MACC.**

(End of provision)

#### 52.223-9 ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA-DESIGNATED ITEMS (MAY 2008)\*

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

Postconsumer material means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of "recovered material."

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall--

(1) Estimate the percentage of the total recovered material content for EPA-designated item(s) delivered and/or used in contract performance, including, if applicable, the percentage of post-consumer material content; and

(2) Submit this estimate to (Contracting Officer complete in accordance with agency procedures).

(End of clause)

**\* See individual task order for specific information**

#### 52.225-9 BUY AMERICAN—CONSTRUCTION MATERIALS (MAY 2014) \*

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

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

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

(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

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

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

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

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

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

Cost of components means--

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

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

Domestic construction material means--

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

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

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 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; or

(ii) The construction material is a COTS item.

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

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

(b) Domestic preference.

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

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

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

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;



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

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

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

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

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

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) \1\
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## Item 1

Foreign construction material.... \_\_\_\_\_  
 Domestic construction material... \_\_\_\_\_

## Item 2

Foreign construction material.... \_\_\_\_\_  
 Domestic construction material... \_\_\_\_\_

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 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)

**\* See individual task order for specific information**

52.225-11 BUY AMERICAN--CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (FEB 2016)\*

(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 item (as defined in paragraph (1) of the definition at 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, 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, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan or United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, 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) An unmanufactured construction material mined or produced in the United States;

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

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 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; or

(ii) The construction material is a COTS item.

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

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.

“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.

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 component test of the Buy American statute is waived for construction material that is a COTS item. (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 item or to the construction materials or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate “none”]

(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 6 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) \1\
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Item 1:

Foreign construction material....  
Domestic construction material....

Item 2:

Foreign construction material....  
Domestic construction material....  
-----

\1\ 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)

**\* See individual task order for specific information**

52.225-11 BUY AMERICAN ACT --CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (OCT 2016) ALTERNATE I (MAY 2014)

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

Australian, Chilean, or Moroccan construction material means a construction material that--

(1) Is wholly the growth, product, or manufacture of Australia, Chile, or Morocco; 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 Australia, Chile, or Morocco into a new and different construction material distinct from the materials from which it was transformed.

Bahrainian, Mexican, or Omani construction material means a construction material that--

(1) Is wholly the growth, product, or manufacture of Bahrain, Mexico; or Oman

(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 Bahrain, Mexico, or Oman into a new and different construction material distinct from the materials from which it was transformed.

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.

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, 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, Canada, 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, 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).

Domestic construction material means--

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

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 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.

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

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.

“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.

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 component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and all the Free Trade Agreements except the Bahrain FTA, NAFTA, and the Oman FTA apply to the this acquisition. Therefore, the Buy American statute restrictions are waived for designated country construction materials other than Bahrainian, Mexican, or Omani construction materials.

(2) The Contractor shall use only domestic or designated country construction material other than Bahrainian, Mexican, or Omani 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 the construction materials or components listed by the Government as follows: (Contracting Officer to list applicable excepted materials or indicate ``none")

(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 6 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) \1\
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Item 1:

Foreign construction material....	.....	.....	.....
Domestic construction material...	.....	.....	.....

## Item 2:

Foreign construction material....	.....	.....	.....
Domestic construction material...	.....	.....	.....

\1\ Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).

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

Include other applicable supporting information.

(End of clause)

## 52.228-1 BID GUARANTEE (SEP 1996)

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

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

(c) The amount of the bid guarantee shall be 20% percent of the bid price or \$3,000,000\*, 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)

**\*Unless otherwise specified in the task order**

## 52.228-13 ALTERNATIVE PAYMENT PROTECTIONS (JULY 2000) \*

(a) The Contractor shall submit one of the following payment protections:

(b) The amount of the payment protection shall be 100 percent of the contract price.

(c) The submission of the payment protection is required within                days of contract award.

(d) The payment protection shall provide protection for the full contract performance period plus a one-year period.

(e) Except for escrow agreements and payment bonds, which provide their own protection procedures, the Contracting Officer is authorized to access funds under the payment protection when it has been alleged in writing

by a supplier of labor or material that a nonpayment has occurred, and to withhold such funds pending resolution by administrative or judicial proceedings or mutual agreement of the parties.

(f) When a tripartite escrow agreement is used, the Contractor shall utilize only suppliers of labor and material that signed the escrow agreement.

(End of clause)

**\* See individual task order for specific information**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

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

(1) Notify the Contracting Officer of such performance deficiency; and

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until--

(i) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or

(ii) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

(e) Retainage. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(f) Title, liability, and reservation of rights. All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as--

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(g) Reimbursement for bond premiums. In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of

progress payments attributable to bond premiums.

(h) Final payment. The Government shall pay the amount due the Contractor under this contract after--

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 6305).

(i) Limitation because of undefinitized work. Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(j) Interest computation on unearned amounts. In accordance with 31 U.S.C. 3903(c)(1), the amount payable under subparagraph (d)(2) of this clause shall be--

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

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

(End of clause)

## 52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (JAN 2017)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments--(1) Types of invoice payments. For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project.

(A) The due date for making such payments is 14 days after the designated billing office receives a proper payment request. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date is the 14th day after the date of the Contractor's payment request, provided the designated billing office receives a proper payment request and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, is as specified in the contract or, if not specified, 30 days after approval by the Contracting Officer for release to the Contractor.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract).

(A) The due date for making such payments is the later of the following two events:

(1) The 30th day after the designated billing office receives a proper invoice from the Contractor.

(2) The 30th day after Government acceptance of the work or services completed by the Contractor. For a final invoice when the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance is deemed to occur on the effective date of the contract settlement.

(B) If the designated billing office fails to annotate the invoice with the date of actual receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(xi) of this clause. If the invoice does not comply with these requirements, the designated billing office must return it within 7 days after receipt, with the reasons why it is not a proper invoice. When computing any interest penalty owed the Contractor, the Government will take into account if the Government notifies the Contractor of an improper invoice in an untimely manner.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., discount for prompt payment terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) For payments described in paragraph (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts.

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer--System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer--Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(xi) Any other information or documentation required by the contract.

(3) Interest penalty. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) Computing penalty amount. The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval is deemed to occur constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. If actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes, and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(5) Discounts for prompt payment. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

(6) Additional interest penalty. (i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if--

- (A) The Government owes an interest penalty of \$1 or more;
- (B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and
- (C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.
- (ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall--
- (1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;
  - (2) Attach a copy of the invoice on which the unpaid late payment interest was due; and
  - (3) State that payment of the principal has been received, including the date of receipt.
- (B) If there is no postmark or the postmark is illegible--
- (1) The designated payment office that receives the demand will annotate it with the date of receipt provided the demand is received on or before the 40th day after payment was made; or
  - (2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.
- (b) Contract financing payments. If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.
- (c) Subcontract clause requirements. The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:
- (1) Prompt payment for subcontractors. A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.
  - (2) Interest for subcontractors. An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause--
    - (i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and
    - (ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under 41 U.S.C. 7109 in effect at the time the Contractor accrues the obligation to pay an interest penalty.
  - (3) Subcontractor clause flowdown. A clause requiring each subcontractor to use:
    - (i) Include a payment clause and an interest penalty clause conforming to the standards set forth in paragraphs (c)(1) and (c)(2) of this clause in each of its subcontracts; and



(ii) Require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) Subcontract clause interpretation. The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that--

(1) Retainage permitted. Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) Withholding permitted. Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) Withholding requirements. Permit such withholding without incurring any obligation to pay a late payment penalty if--

(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and

(ii) The Contractor furnishes to the Contracting Officer a copy of any notice issued by a Contractor pursuant to paragraph (d)(3)(i) of this clause.

(e) Subcontractor withholding procedures. If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall--

(1) Subcontractor notice. Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) Contracting Officer notice. Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (e)(1) of this clause;

(3) Subcontractor progress payment reduction. Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (e)(1) of this clause;

(4) Subsequent subcontractor payment. Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and--

(i) Make such payment within--

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph (e)(5)(i)) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under 41 U.S.C. 7109 in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) Notice to Contracting Officer. Notify the Contracting Officer upon--

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying--

(A) The amounts withheld under paragraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended; and

(6) Interest to Government. Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until--

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under paragraph (e)(5)(i) of this clause.

(f) Third-party deficiency reports--

(1) Withholding from subcontractor. If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a "second-tier subcontractor") a written notice in accordance with 40 U.S.C. 3133, asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under paragraph (e)(6) of this clause--

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (f)(1)(i) of this clause.

(2) Subsequent payment or interest charge. As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall--

(i) Pay the amount withheld under paragraph (f)(1)(ii) of this clause to such first-tier subcontractor; or

(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of 41 U.S.C. 7109 in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) Written notice of subcontractor withholding. The Contractor shall issue a written notice of any withholding to a subcontractor (with a copy furnished to the Contracting Officer), specifying--

(1) The amount to be withheld;

(2) The specific causes for the withholding under the terms of the subcontract; and

(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) Subcontractor payment entitlement. The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) Prime-subcontractor disputes. A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the Government is a party. The Government may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) Preservation of prime-subcontractor rights. Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) Non-recourse for prime contractor interest penalty. The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the Government for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

(l) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall--

(1) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the--

(i) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(ii) Affected contract number and delivery order number if applicable;

(iii) Affected line item or subline item, if applicable; and

(iv) Contractor point of contact.

(2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(End of clause)

#### 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—SYSTEM FOR AWARD MANAGEMENT (OCT 2018)

(a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the System for Award Management (SAM). In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to SAM.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. If the Contractor's EFT information in SAM is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into SAM; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

- (i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or
- (ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in SAM and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of

payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in SAM.

(End of Clause)

**52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER—OTHER THAN SYSTEM FOR AWARD MANAGEMENT (JULY 2013) \***

(a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term “EFT” refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information. (1) The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: “designated office”) by (the Contracting Officer shall insert date, days after award, days before first request, the date specified for receipt of offers if the provision at 52.232-38 is utilized, or “concurrent with first request” as prescribed by the head of the agency; if not prescribed, insert “no later than 15 days prior to submission of the first request for payment”). If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. (1) The Government is not required to make any payment under this contract until after receipt, by the designated office, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the

prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

(j) EFT information. The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

(1) The contract number (or other procurement identification number).

(2) The Contractor's name and remittance address, as stated in the contract(s).

- (3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.
- (4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.
- (5) The Contractor's account number and the type of account (checking, saving, or lockbox).
- (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.
- (7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

(End of clause)

**\* See individual ask order for specific information if applicable**

#### 52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)

- (a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.
- (b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.
- (c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

(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 (20% for construction; 15% for housing; 25% if special trade contractor) 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 . . . . . [insert a description of investigational methods used, such as surveys, auger borings, core borings, test pits, probings, test tunnels].

(b) Weather conditions . . . . . (insert a summary of weather records and warnings).

(c) Transportation facilities . . . . . (insert a summary of transportation facilities providing access from the site, including information about their availability and limitations).

(d) . . . . . (insert other pertinent information).

(End of clause)

**\* See individual task order for specific information**

52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997) - ALTERNATE II (APR 1984).

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by," or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," "as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed".

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for



complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor. Upon completing the work under this contract, the Contractor shall furnish **four (4)\*** sets of prints of all shop drawings as finally approved. These drawings shall show changes and revisions made up to the time the equipment is completed and accepted.

**\* Unless otherwise specified in the task order**

#### 52.244-2 SUBCONTRACTS (OCT 2010) \*

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

Approved purchasing system means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

Consent to subcontract means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

Subcontract means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (c) or (d) of this clause.

(c) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that—

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds—

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts:

(e)(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of this clause, including the following information:

- (i) A description of the supplies or services to be subcontracted.
- (ii) Identification of the type of subcontract to be used.
- (iii) Identification of the proposed subcontractor.
- (iv) The proposed subcontract price.
- (v) The subcontractor's current, complete, and accurate certified cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.
- (vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.
- (vii) A negotiation memorandum reflecting—
  - (A) The principal elements of the subcontract price negotiations;
  - (B) The most significant considerations controlling establishment of initial or revised prices;
  - (C) The reason certified cost or pricing data were or were not required;
  - (D) The extent, if any, to which the Contractor did not rely on the subcontractor's certified cost or pricing data in determining the price objective and in negotiating the final price;
  - (E) The extent to which it was recognized in the negotiation that the subcontractor's certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;
  - (F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and
  - (G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.
- (2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (c), (d), or (e) of this clause.
- (f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination—
  - (1) Of the acceptability of any subcontract terms or conditions;
  - (2) Of the allowability of any cost under this contract; or
  - (3) To relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(h) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(i) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(j) Paragraphs (c) and (e) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

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(End of clause)

**\* See individual task order for specific information**

#### 52.245-2 GOVERNMENT PROPERTY INSTALLATION OPERATION SERVICES (APR 2012) \*

(a) This Government Property listed in paragraph (e) of this clause is furnished to the Contractor in an "as-is, where is" condition. The Government makes no warranty regarding the suitability for use of the Government property specified in this contract. The Contractor shall be afforded the opportunity to inspect the Government property as specified in the solicitation.

(b) The Government bears no responsibility for repair or replacement of any lost Government property. If any or all of the Government property is lost or becomes no longer usable, the Contractor shall be responsible for replacement of the property at Contractor expense. The Contractor shall have title to all replacement property and shall continue to be responsible for contract performance.

(c) Unless the Contracting Officer determines otherwise, the Government abandons all rights and title to unserviceable and scrap property resulting from contract performance. Upon notification to the Contracting Officer, the Contractor shall remove such property from the Government premises and dispose of it at Contractor expense.

(d) Except as provided in this clause, Government property furnished under this contract shall be governed by the Government Property clause of this contract.

(e) Government property provided under this clause:

(End of clause)

**See individual task order for specific information**

#### 52.246-21 WARRANTY OF CONSTRUCTION (MAR 1994)

(a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Government takes possession.

(c) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government-owned or controlled real or personal property, when that damage is the result of--

(1) The Contractor's failure to conform to contract requirements; or

(2) Any defect of equipment, material, workmanship, or design furnished.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

(1) Obtain all warranties that would be given in normal commercial practice;

(2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and

(3) Enforce all warranties for the benefit of the Government, if directed by the Contracting Officer.

(h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government nor for the repair of any damage that results from any defect in Government-furnished material or design.

(j) This warranty shall not limit the Government's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

(End of clause)

(a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Government takes possession.

(c) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government-owned or controlled real or personal property, when that damage is the result of

(1) The Contractor's failure to conform to contract requirements; or

(2) Any defect of equipment, material, workmanship, or design furnished.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

(1) Obtain all warranties that would be given in normal commercial practice;

(2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and

(3) Enforce all warranties for the benefit of the Government, if directed by the Contracting Officer.

(h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government nor for the repair of any damage that results from any defect in Government-furnished material or design.

(j) This warranty shall not limit the Government's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

(k) Defects in design or manufacture of equipment specified by the Government on a "brand name and model" basis, shall not be included in this warranty. In this event, the Contractor shall require any subcontractors, manufacturers, or suppliers thereof to execute their warranties, in writing, directly to the Government.

(End of clause)

**\* See individual task order for specific information**

#### 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/far/>

(End of clause)

#### 52.252-5 AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)\*

(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 \_\_\_\_\_ (48 CFR Chapter \_\_\_\_\_) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of provision)

**\* See individual task order for specific information**

#### 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)\*

(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 insert regulation name (48 CFR \_\_\_\_\_) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of clause)

**\* See individual task order for specific information**

#### 252.211-7001 AVAILABILITY OF SPECIFICATIONS, STANDARDS, AND DATA ITEM DESCRIPTIONS NOT LISTED IN THE ACQUISITION STREAMLINING AND STANDARDIZATION INFORMATION SYSTEM (ASSIST), AND PLANS, DRAWINGS, AND OTHER PERTINENT DOCUMENTS (MAY 2006)

Offerors may obtain the specifications, standards, plans, drawings, data item descriptions, and other pertinent documents cited in this solicitation by submitting a request to:

**Naval Facilities Engineering Command Southwest**

1220 Pacific Highway  
San Diego, CA 92132

Include the number of the solicitation and the title and number of the specification, standard, plan, drawing, or other pertinent document.

(End of Provision)

252.211-7002 AVAILABILITY FOR EXAMINATION OF SPECIFICATIONS, STANDARDS, PLANS, DRAWINGS, DATA ITEM DESCRIPTIONS, AND OTHER PERTINENT DOCUMENTS (DEC. 1991)

The specifications, standards, plans, drawings, data item descriptions, and other pertinent documents cited in this solicitation are not available for distribution but may be examined at the following location:

Naval Facilities Engineering Command Southwest  
1220 Pacific Highway  
San Diego, CA 92132

(End of provision)

252.216-7006 ORDERING (MAY 2011)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the contract schedule. Such orders may be during the effective term of the contract.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c)(1) If issued electronically, the order is considered "issued" when a copy has been posted to the Electronic Document Access system, and notice has been sent to the Contractor.

(2) If mailed or transmitted by facsimile, a delivery order or task order is considered "issued" when the Government deposits the order in the mail or transmits by facsimile. Mailing includes transmittal by U.S. mail or private delivery services.

(3) Orders may be issued orally only if authorized in the schedule.

(End of Clause)

252.222-7000 RESTRICTIONS ON EMPLOYMENT OF PERSONNEL (MAR 2000)\*

(a) The Contractor shall employ, for the purpose of performing that portion of the contract work in \_\_\_\_\_, individuals who are residents thereof and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills to perform the contract.

(b) The Contractor shall insert the substance of this clause, including this paragraph (b), in each subcontract awarded under this contract.

(End of clause)

**\* See individual task order for specific information**

**252.232-7006 WIDE AREA WORKFLOW PAYMENT INSTRUCTIONS (MAY 2013)\***

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

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

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

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

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

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

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

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

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

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

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

(1) Document type. The Contractor shall use the following document type(s).

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(Contracting Officer: Insert applicable document type(s). Note: If a "Combo" document type is identified but not supportable by the Contractor's business systems, an "Invoice" (stand-alone) and "Receiving Report" (stand-alone) document type may be used instead.)

(2) Inspection/acceptance location. The Contractor shall select the following inspection/acceptance location(s) in WAWF, as specified by the contracting officer.

---

(Contracting Officer: Insert inspection and acceptance locations or "Not applicable".)



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

Routing Data Table\*

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

(\*Contracting Officer: Insert applicable DoDAAC information or “See schedule” if multiple ship to/acceptance locations apply, or “Not applicable.”)

(4) Payment request and supporting documentation. The Contractor shall ensure a payment request includes appropriate contract line item and subline item descriptions of the work performed or supplies delivered, unit price/cost per unit, fee (if applicable), and all relevant back-up documentation, as defined in DFARS Appendix F, (e.g. timesheets) in support of each payment request.

(5) WAWF email notifications. The Contractor shall enter the email address identified below in the “Send Additional Email Notifications” field of WAWF once a document is submitted in the system.

\_\_\_\_\_

(Contracting Officer: Insert applicable email addresses or “Not applicable.”)

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

\_\_\_\_\_

(Contracting Officer: Insert applicable information or “Not applicable.”)

(2) For technical WAWF help, contact the WAWF helpdesk at 866-618-5988.

(End of clause)

**\*See individual task order for specific information**

(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.
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(End of clause)

**\* See individual task order for specific information**

#### 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000)

(a) The Contractor has indicated by the response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the Contractor learns that supplies, as defined in the Transportation of Supplies by Sea clause of this contract, will be transported by sea, the Contractor --

- (1) Shall notify the Contracting Officer of that fact; and
- (2) Hereby agrees to comply with all the terms and conditions of the Transportation of Supplies by Sea clause of this contract.

(b) The Contractor shall include this clause; including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties--

- (1) In all subcontracts under this contract, if this contract is a construction contract; or

(2) If this contract is not a construction contract, in all subcontracts under this contract that are for--

(i) Noncommercial items; or

(ii) Commercial items that--

(A) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(B) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(C) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(End of clause)

#### 52.216-24

#### 52.216-24 LIMITATION OF GOVERNMENT LIABILITY (APR 1984) \*

(a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding \_\_\_\_\_ dollars.

(b) The maximum amount for which the Government shall be liable if this contract is terminated is \_\_\_\_\_ dollars.

(End of Clause)

**\*See individual task order for specific information**

#### 252.217-7027

#### 252.217-7027 CONTRACT DEFINITIZATION (DEC 2012) \*

(a) A **(insert specific type of contract action)** is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive contract that will include (1) all clauses required by the Federal Acquisition Regulation (FAR) on the date of execution of the undefinitized contract action, (2) all clauses required by law on the date of execution of the definitive contract action, and (3) any other mutually agreeable clauses, terms, and conditions. The Contractor agrees to submit **insert type of proposal; e.g., fixed-price or cost-and-fee)** proposal and certified cost or pricing data supporting its proposal.

(b) The schedule for definitizing this contract is as follows (insert target date for definitization of the contract action and dates for submission of proposal, beginning of negotiations, and, if appropriate, submission of the make-or-buy and subcontracting plans and certified cost or pricing data).

(c) If agreement on a definitive contract action to supersede this undefinitized contract action is not reached by the target date in paragraph (b) of this clause, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with subpart 15.4 and part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the Limitation of Government Liability clause.

(1) After the Contracting Officer's determination of price or fee, the contract shall be governed by--

(i) All clauses required by the FAR on the date of execution of this undefinitized contract action for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);

(ii) All clauses required by law as of the date of the Contracting Officer's determination; and

(iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with paragraph (c)(1) of this clause, all clauses, terms, and conditions included in this undefinitized contract action shall continue in effect, except those that by their nature apply only to an undefinitized contract action.

(d) The definitive contract resulting from this undefinitized contract action will include a negotiated (insert "cost/price ceiling" or "firm-fixed price") in no event to exceed (insert the not-to-exceed amount).

(End of clause)

**\* See individual task order for specific information**

## Section 00800 - Special Contract Requirements

SECTION 00801

**SECTION 00801**  
**CONTRACT TYPE/PERFORMANCE**  
**SPECIAL CONTRACT REQUIREMENTS**  
**(APR 2019)**

**1. GENERAL OVERVIEW OF MULTIPLE AWARD CONSTRUCTION CONTRACT (MACC)**

A Multiple Award Construction Contract is a contract awarded from a single solicitation, and may result in award to multiple contractors. This procurement uses the two-phase design-build selection procedures and consists of one solicitation covering both phases with the intent to award three or more Indefinite Delivery Indefinite Quantity (IDIQ) Construction Contracts to the Offeror(s) whose proposal(s), conforming to the RFP, will be most advantageous to the Government resulting in the Best Value, price and other non-price related factors considered. The Government reserves the right not to award the Proposed Task Order 0001. The Government reserves the right to substitute or add other design-build projects that meet the scope of the MACC.

**2. CONTRACT TYPE**

This is an indefinite delivery indefinite quantity (IDIQ) contract with no pre-established fixed contract prices. The actual amount of work to be performed and the time of such performance will be determined by a Contracting Officer, who will issue written Task Orders to the contractor. Award of Task Orders will be on a firm fixed price basis. This is not a requirements contract.

**3. SET-ASIDE:** This contract is unrestricted with two (2) or more contracts reserved for highly qualified small businesses. Price evaluation preference will be given to HUBZone Small Business firms, in accordance with FAR 52.219-4. Each task order issued under this MACC valued at \$10,000,000 or less will be set aside for the small business MACC holders whenever the “rule of two” is satisfied for that task order. Additionally, the Government reserves the right to set aside task orders up to \$20,000,000 for small business MACC holders whenever the “rule of two” is satisfied for that task order. Setting aside task orders up to \$20,000,000 is at the contracting officer’s discretion.

**4. NAICS CODE:** 237990 Size Standard \$39.5M applies to this contract.

**5. DESCRIPTION OF WORK:**

The work to be acquired under this contract is for new construction, renovation, and repair within the NAICS code listed, primarily by design-build or secondarily by design-bid-build, of Waterfront Facilities at various Government installations located in California, Arizona, Nevada, Utah, Colorado, and New Mexico. The area of coverage may also extend to the entire NAVFAC area of responsibility (AOR) as approved by the NAVFAC Southwest (SW) Chief of Contracting Office (CCO). However, it is anticipated that the majority of the work will be performed in California.

Types of projects may include, but are not limited to: piers, wharves, quay walls, magnetic silencing facilities, bulkheads, sea walls, dry docks, boat ramps, docks and marinas, shore protection systems, rip rap, breakwaters, wave attenuation, mooring dolphins, buoys, primary and secondary fendering, pile driving, sheet piles, camels, separators, brows, gangways, dredging and disposal, all utilities for marine operations and other waterfront structures (both in and above water) related to waterfront operations (such as unexploded ordinance, crane rails, security, all applicable Federal, State, and local regulatory/environmental requirements, etc.) to support Navy vessels and port operations.

In support of design-build strategies, each Offeror shall possess in-house capabilities or employ the services of Lead Architect-Engineering (A-E) Design Firm(s) experienced in the design development and coordination of projects within the scope of this contract. In an effort to avoid a potential conflict of interest, Offerors are encouraged to offer multiple design teams to satisfy a variety of project types projected to be awarded during the term of the contract(s). The Offeror and the proposed Lead Design Firm(s) for the basic contract(s) will be evaluated as a team. Lead A-E Design Firm(s), their subsidiaries and affiliates that are involved at the RFP or design stage of a particular project under another contract will not be allowed to propose or be used on a Task Order for that project under this contract. All professional disciplines shall be registered and/or certified in their discipline. In any state requiring specialized knowledge of local permitting or regulatory agency requirements, the professional discipline shall be registered or certified in that state.

## **6. CONTRACT DURATION, LIMITS, AND AMOUNTS**

a. Term of contract: Each of the resulting contracts will be for a base period of two (2) years (or less, as determined by the Contracting Officer if the maximum contract amount is ordered by the Government).

b. Options: Each contract contains one (1) 3-year option for a total maximum duration of five (5) years or estimated maximum dollar value (see paragraph c. below), whichever occurs first. The Government has the option to extend the term of the contract in accordance with the contract clause entitled "Option to Extend the Term of the Contract, FAR 52.217-9." The Government may extend the contract for a 3-year option period by written notice to the contractor within the performance period specified in the Schedule, provided that the Government will give the contractor a preliminary written notice of its intent to extend at least sixty (60) days before the contract expires. The preliminary notice does not commit the Government to an extension.

c. Amounts: The estimated maximum dollar value, including the base period and all options, for all contracts combined is \$750,000,000.

d. Task Order Limitations: Estimated Task Order range is between \$50,000 and \$100,000,000. Task Orders may fall below or above this limit; however, contractors are not obligated to accept such Task Orders under the general terms of the contract.

e. Minimum Guarantee: The Government makes no representation as to the number of Task Orders or actual amount of work to be ordered, however, during the term of the contract, a minimum of \$5,000 is guaranteed to each awardee. Contractors are not guaranteed work in excess of the minimum guarantee specified herein.

**7. PERFORMANCE OF WORK/LIMITATIONS ON SUBCONTRACTING:** All work under this contract shall be in accordance with Code of Federal Regulations, Title 13, Part 121--Small Business Size Regulations, Part 124--8(A) Business Development/Small Disadvantaged Business Status Determinations, Part 125--Government Contracting Programs, and Part 126--HUBZone Program; and FAR Part 19--Small Business Programs and Part 36--Construction and Architect-Engineer Contracts, as applicable.

a. Total 8(a) (including Joint Venture/Mentor Protégé) Set-Aside: In the case of a contract for general construction, in accordance with FAR Clause 52.219-14, Limitation on Subcontracting, the prime contractor will perform at least 15 percent of the cost of the contract with its own employees (not including the cost of materials). In the case of a contract for construction by special trade contractors, the prime contractor will perform at least 25 percent of the cost of the contract with its own employees (not including the cost of materials). If the prime contractor is an 8(a) joint venture or Mentor Protégé, performance of work is as follows: For any 8(a) contract, including those between mentors and protégés authorized by 13 CFR Sec. 124.520, the joint venture must perform the applicable percentage of work required by 13 CFR Sec. 124.510, and the 8(a) partner(s) to the joint venture must perform at least 40% of the work performed by the joint venture (see 13 CFR Sec. 124.513).

Indefinite quantity contracts: 13 CFR Sec. 124.510 applies as follows: (c)(1) In order to ensure that the required percentage of costs on an indefinite quantity 8(a) award is performed by the Participant, the Participant must demonstrate semiannually that it has performed the required percentage to that date. For a service or supply contract, this does not mean that the Participant must perform 50 percent of the applicable costs for each Task Order

with its own force, or that a Participant must have performed 50 percent of the applicable costs at any point in time during the contract's life. Rather, the Participant must perform 50 percent of the applicable costs for the combined total of all Task Orders issued to date at six-month intervals. (2) Where there is a guaranteed minimum condition in an indefinite quantity 8(a) award, the required performance of work percentage need not be met on Task Orders issued during the first six months of the basic contract period. In such a case, however, the percentage of work that a Participant may further contract to other concerns during the first six months of the contract may not exceed 50 percent of the total guaranteed minimum dollar value to be provided by the contract. Once the guaranteed minimum amount is met, the general rule for indefinite quantity contracts set forth in paragraph (c)(1) of this section applies

b. Total HUBZone Set-Aside: In the case of a contract for general construction, in accordance with FAR Clause 52.219-3, Notice of HUBZone Set-Aside or Sole Source, at least 15% of the cost of contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees; at least 50% of the cost of the contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees or on a combination of the HUBZone prime contractor's employees and employees of HUBZone small business concern subcontractors; and no more than 50% of the cost of contract performance to be incurred for personnel will be subcontracted to concerns that are not HUBZone small business concerns; or in the case of a contract for construction by special trade contractors, at least 25% of the cost of contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees; at least 50% of the cost of the contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees or on a combination of the HUBZone prime contractor's employees and employees of HUBZone small business concern subcontractors; and no more than 50% of the cost of contract performance to be incurred for personnel will be subcontracted to concerns that are not HUBZone small business concerns. If the concern is a HUBZone joint venture: The aggregate of the HUBZone small business participants to the joint venture, not each participant separately, must perform the applicable percentage of work required by 13 CFR Sec. 125.6.

c. Total Service-Disabled Veteran-Owned Small Business Set-Aside: In the case of a contract for general construction, in accordance with FAR Clause 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside, at least 15% of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other service-disabled veteran-owned small business concerns. In the case of a contract for construction by special trade contractors, at least 25% of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other service-disabled veteran-owned small business concerns. A service-disabled veteran-owned small business joint venture must perform the applicable percentage of work required by 13 CFR Sec. 124.510.

d. Combined HUBZone and Service-Disable Veteran-Owned Small Business Set-Aside: Performance of work/limitations on subcontracting shall be in accordance with FAR Clauses 52.219-3, Notice of HUBZone Set-Aside or Sole Source, and 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside, and Title 13, CFR Parts 125 and 126 as they apply to the individual concern.

e. Total Small Business Set-Aside: In the case of a contract for general construction, in accordance with FAR Clause 52.219-14, Limitation on Subcontracting, at least 15% of the cost of contract performance incurred for personnel will be spent on the concern's employees (not including the costs of materials). In the case of a contract for construction by special trade contractors, at least 25% of the cost of contract performance incurred for personnel will be spent on the concern's employees (not including the costs of materials).

f. Unrestricted procurements: As stated in FAR Clause 52.236-1, Performance of Work by the Contractor, the awardee(s) shall perform on the site and with its own organization, work equivalent to at least twenty percent (20%) of the total amount of work to be performed under the contract.

## 8. SUBCONTRACTING PLAN

Any large business required to submit a Subcontracting Plan in accordance with FAR 19.7 will compile a consolidated report at least semi-annually or when directed by the Contracting Officer when data is required for reporting purposes. Reporting responsibilities shall be in accordance with FAR Clause 52.219-9, Small Business Subcontracting Plan with Alternate II. Submit the Individual Subcontract Report (ISR) and the Summary

Subcontract Report (SSR) using the Electronic Subcontracting Reporting System (eSRS) at <http://esrs.gov>, following the instructions in the eSRS.

## **9. WORK BY THE GOVERNMENT**

The Government reserves the right to undertake performance by Government forces, for the same type or similar work as contracted herein, as the Government deems necessary or desirable, and to do so will not breach or otherwise violate this contract.

## **10. COMMENCEMENT OF WORK**

No work under this contract will commence until such time as the Contracting Officer issues a Task Order, either in writing or orally. Oral Task Orders will be confirmed by the issuance of a written Task Order within five working days.

## **11. PLACE OF PERFORMANCE**

The place of performance will be designated on each individual Task Order.

## **12. PROPOSAL PREPARATION COSTS**

The costs for preparation of Task Order proposals, if required under this contract, shall be the responsibility of the contractor and not directly reimbursable. Each Task Order awarded will include at a minimum all labor wages, management, supervision, mobilization, material, and equipment costs. The contractor shall furnish all project management, planning, estimating, labor, transportation, materials, equipment, tools, supervision, design if applicable, and all other associated costs necessary to fulfill the requirements of the Task Order.

## **13. DEFINITIONS**

Where “as shown,” “as indicated,” “as detailed,” or words of similar importance are used, it shall be understood that reference to the drawings accompanying this specification is made unless stated otherwise. Where “as directed,” “as required,” “as permitted,” “approved,” “acceptance,” or words of similar importance are used, it shall be understood that the direction, requirements, permission, approval, or acceptance of the Contracting Officer is intended unless stated otherwise. As used herein, “provided” shall be understood to mean “provided complete in place,” that is “furnished and installed.”

## **14. BUY AMERICAN PROVISIONS**

The following Buy American provisions should be included in the task order RFP. Use the FAR prescriptions for each provision to determine which apply to the specific task order based on the dollar value.

FAR Clause 52.225-9, Buy American--Construction Materials and FAR Clause 52.225-10, Notice of Buy American Requirement--Construction Materials.

FAR Clause 52.225-11, Buy American--Construction Materials under Trade Agreements and FAR Clause 52.225-12, Notice of Buy American Requirement--Construction Materials under Trade Agreements.

FAR Clause 52.225-11, Buy American--Construction Materials under Trade Agreements with Alternate I and FAR Clause 52.225-12, Notice of Buy American Requirement--Construction Materials under Trade Agreements with Alternate II.

## **15. BID BOND**

For each Task Order (over \$150,000) placed on the MACC, the contractor shall furnish a bid guarantee in the amount of 20% of the proposal price or \$3,000,000, whichever is less.



## **16. PERFORMANCE AND PAYMENT BONDS**

Performance and payment bonds in the amount of 100% (unless otherwise stipulated on the individual Task Order) will be required for each Task Order and shall be submitted for approval to the Contracting Officer within 15 days (unless otherwise stipulated on the individual Task Order) of award of a Task Order. Commencement of construction is contingent upon approval of required bonds.

## **17. REQUIRED INSURANCE**

a. Within fifteen days after award of each Task Order under this contract, the contractor(s) shall furnish the Administrative Contracting Officer a Certificate of Insurance as evidence of the existence of the following insurance coverage amounts not less than the amount specified below in accordance with FAR Clause 52.228-5, Insurance – Work on a Government Installation.

### **COVERAGE:**

- Comprehensive General Liability: \$500,000 per occurrence
- Automobile Liability: \$200,000 per person, \$500,000 per occurrence for bodily injury; \$20,000 per occurrence for property damage
- Workmen's Compensation: As required by Federal and State Worker's compensation and occupational disease laws
- Employer's Liability Coverage: \$100,000 except in states where worker's compensation may not be written by private carriers
- Others as required by state law

b. Above insurance coverages are to extend to contractor personnel operating Government owned equipment and vehicles.

c. The Certificate of Insurance shall provide for thirty (30) days written notice to the Contracting Officer by the insurance company prior to cancellation or material change in policy coverage. Other requirements and information are contained in the aforementioned "Insurance" clause.

## **18. CONSTRUCTION WAGE REQUIREMENTS STATUTE WAGE DETERMINATIONS**

Applicable Construction Wage Rate Requirements statute (formerly known as the Davis-Bacon Act) general wage determinations (FAR 22.404-1) will be required for Task Orders awarded under this contract and will be incorporated into the Task Orders. Each Task Order will specify the applicable wage determination; however, the contractor shall be responsible for obtaining them. The applicable Construction Wage Rate Requirements Statute general wage determination can be obtained from the website at <http://www.wdol.gov/>.

## **19. DRAWINGS**

All drawings, if applicable, accompanying Task Orders will be considered to be a part of the scope of work.

## **20. TASK ORDER PERFORMANCE PERIOD**

FAR Clause 52.211-10, Commencement, Prosecution, and Completion of Work, will be incorporated into each Task Order identifying the construction schedule. The Government reserves the right to negotiate a Task Order's performance period if determined to be in the best interest of the Government.

## **21. LIQUIDATED DAMAGES**

FAR Clause 52.211-12, Liquidated Damages – Construction, will be incorporated into the resultant Task Order identifying the liquidated damages rate applicable to that Task Order. If the contractor fails to complete the work

within the time fixed in the Task Order or any extension thereof, the contractor shall pay to the Government as liquidated damages for each Task Order, the rate cited in the Task Order.

## **22. PREAWARD SITE INSPECTIONS**

Upon receipt of the scope of work, including applicable drawings, and following a brief time period for reviewing the documents, the contractor shall inspect the job site. The prospective superintendent shall attend the site visit. Any deficiencies, conflicts, or other areas of concern existing in the scope of work and applicable drawings should be brought to the attention of the Contracting Officer, in writing. The contractor shall also notify the Contracting Officer, in writing, upon observing any features in the design that appear to be ambiguous, confusing, conflicting, or erroneous.

## **23. SUPERVISION**

The contractor shall provide supervision in accordance with FAR Clause 52.236-6, Superintendence by the Contractor, for each Task Order.

## **24. SUBCONTRACTING RESPONSIBILITIES**

The contractor shall be responsible for the management and performance of all subcontractors. The contractor shall ensure subcontractors are competent and capable of handling all assigned work. The contractor shall ensure Task Orders are completed within the stated requirements.

The contractor is responsible for ensuring subcontracting opportunities are made available to responsible small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

## **25. NOTICE OF CONSTRUCTIVE CHANGES**

No order, statement, or direction of the Contracting Officer, an authorized representative of the Contracting Officer whether or not acting within the limits of his authority, or any other representative of the Government, shall constitute a change order under the "Changes" clause of this contract or entitle the contractor(s) to an equitable adjustment of the price or delivery schedule, unless such a change is issued in writing and signed by the Contracting Officer.

## **26. PAYMENTS – WAWF**

Invoicing procedures will be as stated in Section 01 20 00.00 20, Price and Payment Procedures or in Section 01 20 00.05 20, Price and Payment Procedures for Design-Build. Percentage of performance payments will be processed through the designated Administrative Contracting Officer. In accordance with DFARS Clause 252.232-7003 titled "Electronic Submission of Payment Requests and Receiving Reports," this contract requires use of the DoD Wide Area WorkFlow (WAWF) Receipt and Acceptance system for the submission of invoices. Submittal information is included in DFARS Clause 252.232-7006 titled "Wide Area WorkFlow Payment Instructions" of the individual Task Order award document.

## **27. PROJECT KICKOFF MEETING**

Prior to commencing work under a Task Order, the contractor shall meet with the Administrative Contracting Officer and/or designated technical personnel at a mutually agreeable time to discuss and develop mutual understandings concerning schedule and administering work.

## **28. OVERHEAD RATES FOR CONSTRUCTION CONTRACTS**

In an effort to avoid problems during negotiations, it is imperative that contractors are aware that they must consistently use a single distribution base for computing job site overhead. A contractor must use either a per diem

rate or a percentage mark-up to compute job site overhead costs on all changes. In accordance with Federal Acquisition Regulation (FAR) 31.105(d)(3), "Cost incurred at the job site incidental to performing the work, such as the cost for superintendence, timekeeping and clerical work, engineering, utility costs, supplies, material handling, restoration and cleanup, etc., are allowable as direct or indirect costs, provided the accounting practice used is in accordance with the contractor's established and consistently followed cost accounting practices for all work."

In addition, FAR 31.203, "Indirect costs", subparagraph (b), requires grouping of indirect costs "so as to permit distribution of the grouping on the basis of the benefits accruing to the several cost objectives," and then selection of "a distribution base common to all cost objectives to which the grouping is to be allocated." The reference to a "distribution base" requires use of a single distribution base for allocating a given overhead pool to cost objectives. "A contractor may choose any acceptable distribution base for allocating its job site overhead pool to particular cost objectives, but not more than one."

Switching between a time distribution base (per diem rate) and a direct cost distribution base (percentage markup) will not be allowed as it is considered a violation of the FAR requirements for a single distribution base for allocating a given overhead pool, as well as Generally Accepted Accounting Principles (GAAP), which are consistently applied.

## **29. PARTNERING**

Partnering is a structured process, as well as philosophy of doing business with contractors and customers that recognizes common goals through communication and teamwork. It helps create an environment where trust and teamwork prevent disputes, foster good working relationships to everyone's benefit, and facilitate the completion of a successful contract. In support of the command's goals of teamwork and customer satisfaction, our policy is to practice the philosophy of Partnering on every contract we administer. The contractor's key personnel may be required to attend formal partnering for the basic contract. In addition, formal partnering may be required prior to and/or during performance of an individual Task Order, if determined necessary by the Government. Key personnel are defined as the Project Manager, Assistant Project Manager, Superintendent, CQC representative, major subcontractors, and specialized supplementary personnel. The contractor shall pay all costs associated with the partnering effort. The participants shall bear their own costs for meals, lodging, and transportation associated with partnering.

## **30. PERFORMANCE EVALUATIONS**

The Administrative Contract Office will complete a contractor's performance evaluation for input into the Contractor Performance Assessment Reporting System (CPARS) database. The evaluation will take into account all aspects of the contractor's performance. Interim performance evaluations may be completed at any time the contractor's performance is considered less than satisfactory or to provide feedback on the design portion of a design-build Task Order. Contractors will be provided a copy of the performance evaluation and an opportunity to discuss the evaluation. The negative performance evaluations will have an impact on the award of future Task Orders. The contractor shall request a performance evaluation prior to final invoice and closeout to keep for future proposal submissions.

Contractor's performance will be evaluated using the respective contractor performance evaluation report entry system located on the website <http://www.cpars.gov/>. Prior to commencement of work the contractor is required to provide the government with the name, phone number and e-mail address of the "Contractor's Representative" that will be responsible for receipt and review of draft performance evaluations prepared by the government in the appropriate system. It is the contractor's responsibility to keep this contact information current.

## **31. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)**

Statutes and Executive orders require employers to abide by the immigration laws of the United States and to employ in the United States only individuals who are eligible to work in the United States. In accordance with FAR Clause 52.222-54, Employment Eligibility Verification, this contract requires the use of E-Verify which provides an

Internet-based means of verifying employment eligibility of workers employed in the United States, but is not a substitute for any other employment eligibility verification requirements.

## SECTION 00802

### **SECTION 00802 CONTRACT ADMINISTRATION DATA (MAY 2019)**

#### **1. IDENTIFICATION OF PROCURING CONTRACTING OFFICER/ORDERING OFFICER**

The Procuring Contracting Office (PCO) is located at the NAVFAC Southwest, Capital Improvements Contracts Core Team, Code RAQ20, 1220 Pacific Highway, San Diego, California, 92132. Overall administration of the basic contract will be the responsibility of the office. The PCO is responsible for the contract in its entirety and possesses complete authority to modify the terms of the basic contract. NAVFAC Southwest Contracting Officers and authorized ordering officers/individuals designated in writing will be responsible for ordering and administration of the individual Task Orders. The terms "Contracting Officer" and "Ordering Officer" may be used interchangeably when referring to individual Task Orders. All correspondence for the basic contract shall be addressed to the PCO and shall include the contract number assigned.

#### **2. ADMINISTRATIVE CONTRACTING OFFICERS**

Administrative Contracting Officers (ACO) will be designated, in writing, upon award of individual Task Orders. These individuals may include the Resident Officer In Charge of Construction (ROICC), Facilities Engineering Acquisition Division (FEAD), and Contracting Officer located where the work is to be accomplished.

These individuals will be responsible and possess the authority to act on behalf of the Government with respect to the specific Task Order.

All post award/administrative correspondence, i.e., insurance, California Preliminary Notices, etc., shall be addressed to the ACO for the specific Task Order to which it relates. Additionally, all correspondence and Task Orders/modifications, etc. shall include both the Task Order number and the Proposed Task Order (PTO) number as applicable.

#### **3. CONTRACTING OFFICER'S REPRESENTATIVE (COR)**

The COR for the basic contract functions as the technical representative of the Contracting Officer in the administration of the basic contract, providing technical direction and discussion as necessary, with respect to the specifications or statement of work, and monitoring the performance of work under the contract.

The Contracting Officer hereby designates the following individual as COR for the basic contract:

Name:	Matt Acuff
Mailing Address:	Naval Facilities Engineering Command Southwest, Code RRC40 1220 Pacific Highway San Diego, California 92132
Phone Number:	(619) 532-3618
Email Address:	matthew.acuff@navy.mil

The COR for each Task Order will be designated, in writing, upon award of individual Task Orders. Each Task Order COR functions as the technical representative for the administration of the individual Task Order and

provides technical direction as necessary, with respect to the specifications or statement of work for the Task Order. Each Task Order COR will monitor the performance of the work on assigned Task Orders.

CORs are not authorized to take any action, either directly or indirectly, that could result in a change in the pricing, quantity, quality, place of performance, delivery schedule, or other terms and conditions of the basic contract or Task Orders, or to direct the accomplishment of efforts which would exceed the scope of the basic contract or Task Orders.

If the contractor believes that a COR's interpretation of specifications is erroneous, the contractor shall notify the responsible Contracting Officer in writing of this position.

#### SECTION 00803

### **SECTION 00803 TASK ORDER ISSUANCE PROCEDURES (JUL 2018)**

If this contract contains multiple awardees, the issuance procedures stated herein are applicable.

#### **1. GENERAL**

a. When the Government requires work under the contract, a Request for Quote (RFQ) or Request for Proposal (RFP) will be issued as appropriate. RFQ/RFP will normally be issued electronically by email but may be placed via mail, telephone, facsimile, or other electronic means.

b. Task Orders will be awarded on DD Form 1155 (Order for Supplies or Services). Task Orders will be placed in a sequential numbering system, which relate back to the basic contract number and the assigned Proposed Task Order (PTO) Number.

c. The Government will not be obligated to reimburse the contractor for work performed, items delivered, or any costs incurred, nor shall the contractor be obligated to perform, deliver, or otherwise incur costs, except as authorized by duly executed Task Orders.

d. Each Task Order shall include as a minimum:

- (i) Date of order.
- (ii) Contract number and order number.
- (iii) Contract item number and description, quantity, and unit price or estimated cost.
- (iv) Delivery or performance schedule.
- (v) Place of performance.
- (vi) Any packaging, packing, and shipping instructions.
- (vii) Accounting and appropriation data.
- (viii) Method of payment and payment office.

e. Modifications to Task Orders will be issued on Standard Form (SF) 30.

f. Each Contractor is required to submit a reasonable number of good faith proposals for PTOs. Contractors are not obligated to propose on all Task Orders; however, they are required to contact the Contracting Officer at least two days prior to the site visit if they cannot participate in the walk through, or within five days of the proposal due date if they cannot submit an offer. Failure to provide this notification may impact future consideration for PTOs and exercise of an option.

g. In accordance with FAR 16.505(a)(10), no protest under Subpart 33.1 is authorized in connection with the issuance or proposed issuance of an order under a Task Order Contract except for a protest on the grounds that

the order increases the scope, period, or maximum value of the contract; or a protest of an order valued in excess of \$25,000,000.

## **2. COMPETITION**

a. Competition for issuance of Task Orders is limited to those awardees under this contract. All awardees will be given a fair opportunity to be considered for each Task Order unless the Contracting Officer applies one of the exceptions noted below. Upon determining the need to issue a Task Order, all awardees will be considered equally against the stated criteria. In the case of a task order in excess of \$5,000,000, the requirements to provide all contractors a fair opportunity to be considered under 10 U.S.C. Sec. 2304c(b) is not met unless all such contractors are provided, at a minimum, a notice of the task order that includes a clear statement of the agency's requirements; a reasonable period of time to provide a proposal in response to the notice; disclosure of the significant factors and subfactors, including cost or price, that the agency expects to consider in evaluating such proposals, and their relative importance; in the case of an award that is to be made on a best value basis, a written statement documenting the basis for the award and the relative importance of quality and price or cost factors; and an opportunity for a post-award debriefing consistent with the requirements of section 2305(b)(5) of Title 10, United States Code.

b. Unless one of the exceptions noted below applies, each Task Order will be awarded, as a result of competition to the contractor whose offer is the most advantageous to the Government considering the criteria specified.

c. The Contracting Officer reserves the right to make award of a Task Order without competition based upon:

(1) One of the circumstances described below:

(i) The agency need for the supplies or services are so urgent that providing a fair opportunity would result in unacceptable delays;

(ii) Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized;

(iii) The order must be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order; or

(iv) It is necessary to place an order to satisfy a minimum guarantee; or

(v) In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644 (r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply.

(2) A statute expressly authorizes or requires that the purchase be made from a specific source.

## **3. REQUIREMENT FOR PROPOSALS**

a. Task Orders will be firm fixed price with a specific completion date or performance period and clearly define the specific services to be performed or the performance desired. When Options are included in the Schedule, the Task Order will specify the number of days after award for exercising the Options. Each Task Order will contain applicable clauses and provisions. All Task Orders are subject to the terms and conditions of this contract. In the event of conflict between a Task Order and this contract, the contract will control, except as otherwise noted in the contract documents. The Government reserves the right to incorporate additional clauses, as appropriate, into individual Task Order solicitations and awards.

b. Task Orders may be awarded on the basis of price only or Best Value. The two best value source selection approaches are lowest price technically acceptable (LPTA) or Tradeoff process. As a minimum, price shall be evaluated on all MACC Task Orders. Past Performance on earlier MACC Task Orders should be considered in all award decisions. The basis for award will be stated in the PTO.

- (1) Tradeoff process is the preferred method for design-build requirements.
- (2) LPTA should be considered for design-bid-build requirements and for design-build requirements where there is a facility UFC requirement (e.g., CDC) that provides descriptive design requirements. If LPTA is used, the selected evaluation factor(s) should not duplicate what was used to select contractors for the MACC, but should be specific to the project. For any concerns on how a MACC was procured, contact the Contracting Officer's Representative (COR) for the basic contract.
- (3) For non-complex design-bid-build or design-build requirements with a value of less than \$25 million and that do not necessarily require a technical factor, the Contracting Officer may choose to consider only price for award purposes. Price only should be used sparingly and only if a project is not complex. In addition, if the project is design-build and utilizes a MACC that did not evaluate a design firm, low price should not be used.

c. Whenever possible, award will be made without discussions. If discussions are required, each contractor will be requested to provide a final proposal revision, unless eliminated from discussions through the establishment of a competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

d. Task Order projects may be non-complex performance oriented tasks requiring minimal design, may be complex construction requiring design development for design-build construction, or a combination thereof. Projects will be varying in size and complexity. The Task Orders may be written based on a Government/Contractor Team cooperative scoping of the work in order to develop a mutually agreed upon Statement of Work. The Task Order may or may not have traditional plans and specifications but may include sketches, requests for catalog cuts, and other submittals.

e. Price: Each PTO will indicate the detail of pricing information to be provided. Normally, a competitive PTO will require only a lump sum or unit price offer, but the Contracting Officer reserves the right to obtain a more detailed cost breakdown of labor, materials, equipment, overhead, and profit at any time. In case of discrepancy between a unit price/cost and an extended price/cost, the unit price/cost will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

f. Technical proposals, if required, may address one or more of the following factors:

- Design
- The contractor's technical understanding of the work
- The most efficient and effective plan to accomplish the work
- Rationale for proposed materials, type and quantities
- Key Personnel/Major Subcontractor
- Sustainable design features
- Total ownership costs

g. Oral presentations may be used to substitute for, or augment, written information and are subject to the same restrictions as written information.

h. Design Build Task Order: A RFP may be issued with the Target Award Amount/Contract-to-Budget Amount for design and construction along with, but not limited to, a Statement of Work, Design Criteria and or concept design. The contractors may be requested to submit a concept design along with a price proposal. Task Orders will be issued with a firm fixed price for design and construction. It is the Contractor's responsibility to

design the project so that it can be constructed within the fixed price contract value. Failure to do so is at the Contractor's risk.

#### **4. SELECTION CRITERIA**

One or more of the following criteria in addition to Price or Cost may be considered when contractors compete for award of a Task Order:

- (a) Experience
- (b) Safety
- (c) Technical Solution
- (d) Energy and Sustainable Design
- (e) Past Performance

#### **5. RATING SCHEME AND DEFINITIONS:**

If Best Value Tradeoff Process or Lowest Price Technically Acceptable Process is used to award a Task Order, the rating scheme and definitions will be specified in the Task Order RFP.

#### SECTION 00804

#### **SECTION 00804 NAVFAC LANGUAGE (MAR 2019)**

##### **1. AUTHORITY**

1. No person other than the Contracting Officer has authority to bind the Government with respect to this contract.
2. No action or omission of any government employee or representative other than the Contracting Officer shall increase or decrease the scope of this contract or shall otherwise modify the terms and conditions of this contract.
3. In no event shall any of the following be effective or binding on the Government or imputed to the Contracting Officer with respect to this contract:

- (a) An understanding or agreement between the Contractor and anyone other than the Contracting Officer;
- (b) A purported modification or change order issued by anyone other than the Contracting Officer;
- (c) A promise by anyone other than the Contracting Officer to provide additional funding or make payments; or
- (d) An order, direction, consent, or permission from anyone other than the Contracting Officer to:
  - (i) Incur costs in excess of a specified estimated cost, allotment of funds, or other ceiling; or
  - (ii) Expend hours in excess of a specified level of effort.

(End of NAVFAC language)

##### **2. PHASED CONSTRUCTION SCHEDULE \***

Within the overall project schedule, commence and complete the work in phases. Complete each phase of the work within the number of days stated in the following schedule:



a. Schedule start day: The day designated as the beginning of a particular phase; the number listed is the number of days from the award of contract.

b. Completion day: The day designated as the end of a given phase and the day the work in that phase must be completed; the number listed is the number of days from the award of the contract.

c. Schedule:

Phase	Description	Schedule Start Day	Completion Day
A	[ ]	[ ]	[ ]
B	[ ]	[ ]	[ ]
C	Completion of remaining	[ ]	[ ]

*[Contracting Officer to insert start and completion day for each phase. The completion day of the last phase must be the same number as indicated in FAR 52.211-10, Commencement, Prosecution, and Completion of Work.]*

d. If the work of a particular phase is complete and accepted before the scheduled completion day, immediately begin work on the subsequent phase unless otherwise restricted.

(End of NAVFAC language)

\*See individual task order for specific information, if applicable.

### **3. ALL OR NONE OFFERS \***

Offers are solicited on an “all or none” basis and FAR 52.215-1, INSTRUCTIONS TO OFFERORS-COMPETITIVE ACQUISITION in Section L, is hereby modified. Failure to submit offers for all line items listed shall be cause for rejection of the offer.

(End of NAVFAC language)

\*See individual task order for specific information, if applicable.

### **4. NOTICE OF BONDING REQUIREMENTS \***

Within 15 days (unless otherwise stipulated on the individual task order) after receipt of award of a task order, the bidder/offeror to whom the award is made shall furnish the bonds required by FAR Clause 52.228-15.

Bidders/offerors are hereby notified that the contract time for purposes of fixing the completion date, default, and liquidated damages will be as stated in FAR Clause 52.211-10 Commencement, Prosecution, and Completion of Work, regardless of when performance and payment bonds or deposits in lieu of surety are executed.

(End of NAVFAC language)

\*See individual task order for specific information.

### **5. UTILITIES FOR CONSTRUCTION AND TESTING \***

The Contractor shall be responsible for obtaining, either from available Government sources or local utility companies, all utilities required for construction and testing. The Contractor shall provide these utilities at his expense, paid for at the current utility rate delivered to the job site. The Contractor shall provide and maintain all temporary utility connections and distribution lines, and all meters required to measure the amount of each utility used.

(End of NAVFAC language)

\*See individual task order for specific information, if applicable.

**6. SUBSTITUTIONS OF KEY PERSONNEL**

The Contractor shall provide complete resumes for proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 days after receipt of all required information of the consent on substitutes. No change in unit prices may occur as a result of key personnel substitution.

(End of NAVFAC language)