


SOLICITATION, OFFER, AND AWARD <i>(Construction, Alteration, or Repair)</i>	1. SOLICITATION NO. 140F0221R0008	2. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 03/08/2021	PAGE OF PAGES 1 61	
	IMPORTANT -- The "offer" section on the reverse must be fully completed by offeror.				

4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO. 0040521499	6. PROJECT NO.
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7. ISSUED BY FWS, DIVISION OF CONTRACTING AND GE P.O. BOX 1306 500 GOLD AVENUE SW ALBUQUERQUE NM 87102-3118	CODE F02	8. ADDRESS OFFER TO
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9. FOR INFORMATION CALL: 	a. NAME Tom Ketcham	b. TELEPHONE NO. (Include area code) (NO COLLECT CALLS) 5052486844
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SOLICITATION

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

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date)

Tishomingo National Fish Hatchery Design-Build Canal Drainage & Water Control Structures Oklahoma

Fill-in DUNS:

Applicable NAICS codes: 237310, 237990, 541330, and 221310. Total Small Business Set-Aside Firm Fixed Price

The FWS requires the services for all the calculations, design and preparation of construction plans and specifications subsequently construction, for the correction of canal drainage issues at the Tishomingo NFH near Tishomingo, Oklahoma, located in Johnston County, Oklahoma.

The project consists of hydrologic and hydraulic analysis, design and construction of water control structures, box culvert, and related drainage improvements at the Tishomingo National Fish Hatchery site, including all civil, structural, and mechanical, systems in accordance with all applicable building codes and civil engineering industry standards. Site details and conceptual designs are shown on the attached site topographic survey and 20% Design renderings, and Design-Build Statement of Work.

Magnitude is between \$200,000 and \$250,000

Continued ...

11. The Contractor shall begin performance <u>10</u> calendar days and complete it within <u>312</u> calendar days after receiving <u>Per FAR 52.211-10</u>	<input type="checkbox"/> award, <input checked="" type="checkbox"/> notice to proceed. The performance period is <input checked="" type="checkbox"/> mandatory <input type="checkbox"/> negotiable. (See <u>Per FAR 52.211-10</u> .)
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12a. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES", indicate within how many calendar days after award in Item 12b.) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	12b. CALENDAR DAYS 10
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13. ADDITIONAL SOLICITATION REQUIREMENTS:

a. Sealed offers in original and 1 copies to perform the work required are due at the place specified in Item 8 by 04/02/2021 (date). If this is a sealed bid solicitation, offers will 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. 1700 (hour) local time

b. An offer guarantee is, 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 10 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected .

OFFER (Must be fully completed by offeror)

14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)	15. TELEPHONE NO. (Include area code)
	16. REMITTANCE ADDRESS (Include only if different than item 14.)
CODE	FACILITY CODE

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within _____ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in item 13d. Failure to insert any number means the offeror accepts the minimum in item 13d.)

AMOUNTS

18. The offeror agrees to furnish any required performance and payment bonds.

19. ACKNOWLEDGEMENT OF AMENDMENTS

(The offeror acknowledges receipt of amendments to the solicitation -- give number and date of each)

AMENDMENT NO.										
DATE.										

20a. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	20b. SIGNATURE	20c. OFFER DATE
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AWARD (To be completed by Government)

21. ITEMS ACCEPTED:

Continued...

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA		
24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)		ITEM	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO <input type="checkbox"/> 10 U.S.C. 2304(c) () <input type="checkbox"/> 41 U.S.C. 253(c) ()
26. ADMINISTERED BY CODE F02 FWS, DIVISION OF CONTRACTING AND GE P.O. BOX 1306 500 GOLD AVENUE SW ALBUQUERQUE NM 87102-3118	27. PAYMENT WILL BE MADE BY		

CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

<input type="checkbox"/> 28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>1</u> copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work requirements 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,	<input type="checkbox"/> 29. AWARD (Contractor is not required to sign this document.) 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.
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30a. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)	31a. NAME OF CONTRACTING OFFICER (Type or print) Tom Ketcham		
30b. SIGNATURE	30c. DATE	31b. UNITED STATES OF AMERICA BY	31c. DATE

CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED

140F0221R0008

PAGE

OF

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NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
00010	<p>Bid Guarantee is required due to Payment and Performance Bonds are required.</p> <p>Proposals are due by 2 April 2020 at 1700 MT submitted by email only to tom_ketcham@fws.gov All RFI's must be received 10 days prior to the proposal due date.</p> <p>Legacy Doc #: FWS</p> <p>Delivery: 312 Days After Notice to Proceed</p> <p>Delivery Location Code: 0008349356</p> <p>FWS TISHOMINGO NFH</p> <p>5700 OK HWY 7W</p> <p>TISHOMINGO OK 73460-9802 US</p> <p>Canal Drainage & Water Control Structures</p>				

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SECTION A - Solicitation/Contract Form

See: SF 1442

52.211-10 Commencement, Prosecution, and Completion of Work. (APR 1984)

The Contractor shall be required to (a) commence work under this contract within [10] ten calendar days after the date the Contractor receives the notice to proceed and complete the entire work ready for use not later than three hundred and twelve [312] days: **Design Schedule: shall not exceed one hundred twenty (120) days, forty two (42) days Government review and approval; Construction Schedule: shall commence upon Government's approval of the 100% design phase, and shall not exceed one hundred fifty (150) days.** The time stated for completion shall include final cleanup of the premises.

(End of Clause)

52.222-27 Affirmative Action Compliance Requirements for Construction. (APR 2015)

52.232-5 Payments under Fixed-Price Construction Contracts. (MAY 2014)

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 [15%] fifteen percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

(End of Clause)

52.236-2 Differing Site Conditions. (APR 1984)

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of -

(1) Subsurface or latent physical conditions at the site which differ materially from those indicated in this contract; or

(2) Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; *provided*, that the time prescribed in paragraph (a) of this clause for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

(End of Clause)

52.236-3 Site Investigation and Conditions Affecting the Work. (APR 1984)

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

(End of Clause)

52.236-6 Superintendence by the Contractor. (APR 1984)

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

(End of Clause)

52.236-15 Schedules for Construction Contracts. (APR 1984)

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval one copy of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause

shall be grounds for a determination by the Contracting Officer that the Contractor is not executing the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

(End of Clause)

52.236-17 Layout of Work. (APR 1984)

The Contractor shall lay out its work from Government established base lines and benchmarks indicated on the drawings and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

(End of Clause)

52.249-10 Default (Fixed-Price Construction). (APR 1984)

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if -

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include -

- (i) Acts of God or of the public enemy,
- (ii) Acts of the Government in either its sovereign or contractual capacity,
- (iii) Acts of another Contractor in the performance of a contract with the Government,
- (iv) Fires,
- (v) Floods,
- (vi) Epidemics,
- (vii) Quarantine restrictions,
- (viii) Strikes,
- (ix) Freight embargoes,
- (x) Unusually severe weather, or
- (xi) Delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of

fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

(d) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of Clause)

52.222-23 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction. (FEB 1999)

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

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

Goals for Minority Participation for Each Trade: 9%

Goals for Female Participation for Each Trade: 6.9% as per Department of Labor Construction Contractor Nationwide Goals.

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 **Tishomingo National Fish Hatchery, Tishomingo, Oklahoma.**

SECTION B – BID SCHEDULE

BRIDGING DESIGN AND BUILD CANAL DRAINAGE & WATER CONTROL STRUCTURES PROJECT
TISOMINGO NATIONAL FISH HATCHERY, TISHOMINGO, OKLAHOMA

SEE ATTACHMENT 4

SECTION C - Description/Specifications

The Fish and Wildlife Service is seeking proposals which shall consist of labor, equipment, supplies, and materials from a company who has experience with Bridging Design and Construction of a Canal Drainage & Water Control Structures at the Tishomingo National Fish Hatchery (NFH) Tishomingo, Oklahoma. For a comprehensive list of work, see the Statement of Work and 20% Drawings. Work under this contract is located on the Tishomingo National Fish Hatchery located 5501 W Old Highway 7, Tishomingo, Oklahoma in Johnston County.

52.236-21 Specifications and Drawings for Construction. (FEB 1997)

(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 decide 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.

(End of clause)

SECTION D - Packaging and Marking

PAYMENT OF POSTAGE AND FEES

All postage and fees related to submitting information including submittals, forms, reports, etc., to the Contracting Officer or the Contracting Specialist shall be paid by the Contractor.

CORRESPONDENCE/SUBMITTALS

Contractor initiated correspondence and submittals shall identify the contract number. All information shall be emailed to the addresses found in Section G. Correspondence shall be provided by email to the Contracting Officer (CO), including all RFI's. Product and Material Submittals: During construction, Contractor shall provide Contracting Officer Technical Representative, Jeffrey Johns, the products, and material submittals for all items requiring submittals in the contract specifications.

SECTION E - Inspection and Acceptance

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)

52.246-12 Inspection of Construction. (APR 1996)

QUALITY CONTROL RESPONSIBILITIES

(a) General

The quality control of services provided under this contract shall be based on: (i) operational requirements and standards contained in this contract; (ii) work performance; and (iii) productivity requirements and standards, and (iv) data base information resource development and maintenance standards.

(b) Contractor Quality Control Responsibility

The Contractor shall implement and adhere to the quality control plan provided as part of its Technical Proposal. The quality control plan shall be written by the Contractor's Quality Control Manager and approved by his/her immediate supervisor.

The Contractor is solely responsible for quality control of services that it provides. The Contractor's quality control program, which is embodied in the quality control plan, shall include, but not be limited to, the following. A monitoring and inspection system covering all the services listed in the Performance Requirements Summary. It must specify the elements of work performance to be monitored and inspected, either on a scheduled or unscheduled basis; the methods to be used; frequency of monitoring and inspection; the format and content of records and reports to be generated; and the title(s) of the individual(s) who will perform the monitoring and inspection. It shall include, but is not limited to:

- the method for identifying and preventing deficiencies in the quality of services performed before the level of performance can become unsatisfactory.
- the administrative procedures to be followed for reporting to the Contracting Officer's Technical Representative (COTR); and for responding to operational problems or complaints concerning work performance, qualifications, or other complaints about Contractor personnel; and
- preparation of system of on-site records of all inspections conducted by the Contractor and the corrective action(s) taken.

This documentation shall be presented to the Government on a weekly basis (Mondays) during the term of the contract. The Contractor shall have the COTR sign the documents at least weekly and provide a detailed monthly summary of all quality control actions, including descriptions of events which require quality control activity, and the corrective action taken.

(c) Government Quality Assurance Responsibilities

The Government will monitor the Contractor's performance using predetermined quality assurance surveillance procedures to examine and determine compliance with contract performance requirements. A copy of these procedures will be provided to the Contractor prior to the start of contract performance. In keeping with the Government's responsibility for quality assurance, the Government reserves the right to review all administrative, managerial, and statistical reports; telecommunications services; publicity materials and resource library materials using the Performance Requirements Summary. A copy of the Performance Requirements Summary will be provided to the Contractor prior to the start of contract performance. Final determination that reports, resource and publicity materials, and services rendered meet

the requirements is solely the responsibility of the Government. All surveillance observations will be recorded by the Government. When an observation indicates defective performance, the Quality Assurance Evaluator (QAE) will request that the Contract Manager or designee initial the observation record. The Contractor shall, within 48 hours, notify the Contracting Officer, or his/her technical representative if so directed by the Contracting Officer, of the corrective action(s) taken in accordance with methods and techniques specified by the Contractor in its quality control plan. If the Contractor disputes any part of the QAE's observation, he/she shall request that the Contracting Officer hold a Performance Evaluation Meeting.

(d) Performance Evaluation Meetings

The Contract Manager may be required to meet with the COTR, the QAE, and the Contracting Officer whether by telephone or at a designated Contractor-operated location on at least a weekly basis during the first month after the issuance of a Task Order under this contract. Meetings will be held as often as necessary thereafter at the discretion of the Contracting Officer or the COTR. However, a meeting will be held whenever a contract discrepancy report is issued. A mutual good faith effort will be made to resolve all problems identified.

The COTR will write the minutes of these meetings, and the minutes will be signed by the Contract Manager and the COTR. The attendee will, within three (3) business days, identify any areas wherein he/she does not agree by proving written notice to the COTR.

(a) *Definition.* Work includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) Government inspections and tests are for the sole benefit of the Government and do not -

(1) Relieve the Contractor of responsibility for providing adequate quality control measures.

(2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance.

(3) Constitute or imply acceptance; or

(4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph (i) of this section.

(d) The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

(e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

(f) The Contractor shall, without charge, replace or correct work found by the Government not to conform

to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(g) If the Contractor does not promptly replace or correct rejected work, the Government may -

(1) By contract or otherwise, replace or correct the work and charge the cost to the Contractor; or

(2) Terminate for default the Contractor's right to proceed.

(h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

52.246-21 Warranty of Construction. (MAR 1994)

Pre-Final Inspection

The Contractor shall give written notice to the Contracting Officer at least 15 calendar days before the date the construction work will be completed and ready for final inspection. The contractor shall conduct a pre-final and final inspection in the presence of the Contracting Officer's Representative (COR) and/or Site Representative (SR). Other Government personnel may attend both inspections. A Government Pre-Final Punch List may be developed as result of this inspection of any items not meeting Contract requirements for final acceptance. The list of deficiencies may include the estimated date by which the deficiencies will be corrected. Any discrepancies noted shall be corrected prior to **final inspection**. The Government reserves the right to request a pre-final Inspection or final inspection.

Final Inspection

(a) The Contracting Officer shall be notified in writing by the Contractor when the final inspection can be conducted. **The final inspection shall be requested ten (10) calendar days** before the desired date or required completion date of the contract.

(b) The final inspection shall be performed with the Contractor by the Contracting Officer's Technical Representative and/or representatives of the using activity. The Contractor and/or his Project Supervisor shall be present at the job site during final inspection. The Contracting Officer will present to the Contractor, after inspection, a punch list of any items not meeting Contract requirements for final acceptance. This list will be confirmed in writing, and any items therein must be made acceptable before final payment will be made. Any discrepancies noted shall be corrected within the time specified in the contract for final completion. Only the Contracting Officer is authorized to accept work performed.

Inspection

(a) The Contracting Officer or the duly authorized representative will perform inspection of materials and services to be provided.

(b) For the purpose of this clause, *Jeffrey Johns* is the authorized representative of the Contracting Officer.

(c) Inspections will be performed at the construction site.

SECTION F - Deliveries or Performance

52.236-15 Schedules for Construction Contracts. (APR 1984)

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver one copy of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract. (End of clause)

52.242-14 Suspension of Work. (APR 1984)

SECTION G - Contract Administration Data

1. CONTRACT REPRESENTATIVE

Contracting Officer (CO) responsible for this contract: *Thomas Ketcham*
Construction | A&E Team 1
Joint Administrative Operations | U.S. Fish and Wildlife Service
500 Gold Ave SW | PO BOX 1306
Albuquerque, New Mexico 87103
Telephone Number: 505/248-6844

Contracting Specialist (CS) responsible for this contract: *Thomas Ketcham*
Construction | A&E Team 1
Joint Administrative Operations | U.S. Fish and Wildlife Service
500 Gold Ave SW / PO BOX 1306
Albuquerque, New Mexico 87103
Telephone Number: 505/248-6844

Contracting Officer's Technical Representative (COR/COTR) for this contract: *Jeffrey Johns*
U.S. Fish and Wildlife Service
Architect/ Civil Engineer
Southwest Region 2-Facilities
500 Gold Ave SW / PO BOX 1306
Albuquerque, New Mexico 87103
Telephone Number: 505-248-7955 Cell Number: 505-503-3301

Field Inspector (FI) for this contract: *Kerry Graves*
580-384-5463

Tishomingo National Fish Hatchery
5501 OK Hwy 7 W
Tishomingo, OK
73460

2. CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE – LIAISON

The COTR will act as a liaison between the U.S. Fish and Wildlife Service herein referred to as "Service" and the Contractor, and, when necessary, will provide technical direction to the Contractor. The COTR, however, is not authorized to change any of the terms and conditions of the contract, issue new assignments of work, make decisions concerning disputes arising under the contract, or resolve differing site condition matters. Neither the presence nor absence of a government representative shall relieve the Contractor of its responsibilities under the contract.

3. JOB SITE ADMINISTRATION

The Government will designate a FI who will be available at the site to inspect the work as it progresses. The FI will prepare an Inspector's Daily Log, beginning with the first day of the construction contract, detailing ground and weather conditions, work being performed, materials delivered, and notes of any problems or difficulties. Government inspections do not relieve the Contractor of responsibility for providing adequate quality control measures. It is expected on this project the contractor will send weekly pictures and reports to COTR and CO. At the end of every day of work on this contract, the Contractor's Superintendent, as defined below, shall contact the FI, review the daily log, and sign as the Contractor's representative. Unless the Contractor's Superintendent makes notations to the contrary on the daily log, the log shall be presumed to be accurate. The FI is not authorized to make technical decisions or give technical directions; the Contractor or the Contractor's Superintendent must contact the COTR regarding such decisions and directions. The Contractor shall have a competent superintendent (hereinafter

referred to as the "Contractor's Superintendent") who is (i) deemed acceptable to the Government; (ii) authorized to act on the Contractor's behalf; and (iii) be present on the job site at all times when contract work is being performed. (See Superintendence by the Contractor, Section I, Federal Acquisition Regulation (FAR) Clause 52.236-6.)

4. DOI ELECTRONIC INVOICING: Electronic Invoicing and Payment Requirements - Invoice Processing Platform (IPP) (April 2013)

Payment requests must be submitted electronically through the U. S. Department of the Treasury's Invoice Processing Platform System (IPP).

"Payment request" means any request for contract financing payment or invoice payment by the Contractor. To constitute a proper invoice, the payment request must comply with the requirements identified in the applicable Prompt Payment clause included in the contract, or the clause 52.212-4 Contract Terms and Conditions - Commercial Items included in commercial item contracts. The IPP website address is: <https://www.ipp.gov>.

Under this contract, the following documents are required to be submitted as an attachment to the IPP invoice:

Prime contractor and subcontract Davis Bacon WH-347 payrolls (if applicable)

FWS Application and Certificate for Payment (**Sent to Contracting Officer to get FI and COTR signatures prior to attaching in IPP**)

The Contractor must use the IPP website to register access and use IPP for submitting requests for payment. The Contractor Government Business Point of Contact (as listed in SAM) will receive enrollment instructions via email from the Federal Reserve Bank of St. Louis (FRBSTL) within 3 - 5 business days of the contract award date. Contractor assistance with enrollment can be obtained by contacting the IPP Production Helpdesk via email IPPCustomerSupport@fiscal.treasury.gov or phone (866) 973-3131.

If the Contractor is unable to comply with the requirement to use IPP for submitting invoices for payment, the Contractor must submit a waiver request in writing to the Contracting Officer with its proposal or quotation.

(End of Local Clause)

FWS R2 Construction Progress Payment Procedures Clause

Before submitting FWS Application and Certificate for Payment Form, the contractor must follow the below steps, as to not have the payment rejected, due to errors contained in the payment request, and delay the payment process.

Step 1.

Contractor submits a draft progress payment using FWS Application for Construction Progress Payment Form to the Contracting Officer for review, who will be responsible to get the form to the Field Inspector (FI) and Contracting Officer's Technical Representative (COTR) for preliminary review.

Step 2.

Once the Field Inspector (FI) and Contracting Officer's Technical Representative (COTR) finish their review they will sign his or hers portion of the payment application.

Step 3.

Upon receipt of the FI and COTR signed approvals for payment application, the contractor will sign the FWS Application and Certificate for Payment form and load the fully signed approval form into the IPP system.

Step 4.

Once the CO receives the contractor's payment application, he or she will review contractor's payment application in accordance with the contract terms and conditions and either approve payment request or disapprove payment request or withhold 10%, if progress or quality problems remain uncorrected.

Step 5.

Once CO approves payment request it will be forwarded to the USFWS Denver Operation Office for further review and for payment to the contractor's bank via electronic funds transfer (EFT) procedures.

Step 6

Ten (10) days prior to completion of all construction under the terms and conditions of the contract, the contractor will send an e-mail requesting a Final Inspection to the COTR, and FI with a copy of the request e-mailed to the CO.

Once the COTR and FI approve the final inspection request, a time and date will be set by the COTR and FI to perform the final inspection.

A final Inspection form will be provided by the FI and will be used to conduct the inspection. At the end of the inspection, both the contractor and FI will sign the final inspection form.

Note: Either FI, COTR or both are authorized by CO to perform the final inspection.

If both the FI and COTR perform the final inspection, both must sign the inspection form along with contractor.

As a result of final inspection, if there are any "Punchlist Items" noted on the final inspection Form, the contractor shall promptly correct or replace all deficiencies noted, per contract clause 52.246-12-Inspection before submitting the final request for payment.

If there are issues present in which cannot be resolved at the FI and COTR level, the contractor, FI and COTR will e-mail CO of the issues for resolution.

Step 6.

When all punch-list items have been completed, if any, the contractor will notify by e-mail the FI, COTR and CO stating all punch-list items have been correct and request the FI and COTR verify completion of the corrected punch-list items.

1452.201-70 AUTHORITIES AND DELEGATIONS (SEPT 2011)

(a) The Contracting Officer is the only individual authorized to enter or terminate this contract, modify any term or condition of this contract, waive any requirement of this contract, or accept nonconforming work.

(b) The Contracting Officer will designate a Contracting Officer's Technical Representative (COTR) and Field Inspector (FI), as required, at time of award. The COTR and FI will be responsible for technical monitoring of the contractor's performance and deliveries. The COTR and FI will be appointed in writing, and a copy of the appointment will be furnished to the Contractor. Changes to this delegation will be made by written changes to the existing appointment or by issuance of a new appointment.

(c) The COTR and FI are not authorized to perform, formally or informally, any of the following actions:
(1) Promise, award, agree to award, or execute any contract, contract modification, or notice of intent that changes or may change this contract; (2) Waive or agree to modification of the delivery schedule; (3) Make any final decision on any contract matter subject to the Disputes Clause; (4) Terminate, for any reason, the Contractor's right to proceed;
(5) Obligate in any way, the payment of money by the Government.

(d) The Contractor shall comply with the written or oral direction of the Contracting Officer or authorized

representative(s) acting within the scope and authority of the appointment memorandum.

The Contractor need not proceed with direction that it considers having been issued without proper authority. The Contractor shall notify the Contracting Officer in writing, with as much detail as possible, when the COTR or FI has taken an action or has issued direction (written or oral) that the Contractor considers to exceed the COTR's or FI's appointment, within 3 days of the occurrence.

Unless otherwise provided in this contract, the Contractor assumes all costs, risks, liabilities, and consequences of performing any work it is directed to perform that falls within any of the categories defined in paragraph (c) prior to receipt of the Contracting Officer's response issued under paragraph (e) of this clause.

(e) The Contracting Officer shall respond in writing within 30 days to any notice made under paragraph

(d) of this clause. A failure of the parties to agree upon the nature of a direction, or upon the contract action to be taken with respect thereto, shall be subject to the provisions of the Disputes clause of this contract.

(f) The Contractor shall provide copies of all correspondence to the Contracting Officer, COTR and FI.

(g) Any action(s) taken by the Contractor, in response to any direction given by any person acting on behalf of the Government or any Government official other than the Contracting Officer or the COTR or FI acting within his or her appointment, shall be at the Contractor's risk. (End of clause)

SECTION H - Special Contract Requirements

1. UTILITIES

- a. Electric and Water are not available at the site. Contractor shall make any arrangement necessary for its use of water and power. Contractor shall provide drinking water and their own portable toilet.

2. GENERIC GENDER TERMINOLOGY

Except where stipulated by the Federal Acquisition Regulations, the use of terms such as he, she, his, and her are not to be interpreted as implying other than neutral gender terms such as "it" or "their".

3. SAFETY

- a. The Contractor shall always have the ultimate responsibility for safety on the project site until final completion and acceptance of the project.
- b. The Contractor shall comply with all Occupational Safety and Health Administration (OSHA) regulations, as found in 29 CFR 1910 and 1926, which are applicable to the construction project, including requirements set forth within solicitation provisions and contract clauses. In addition to OSHA safety standards, the Contractor shall also adhere to all current local, federal, and state safety requirements. In the event where any safety standard referenced herein conflicts with another, the more stringent shall govern.
- c. The Contractor shall initiate and maintain an effective safety program that provides adequate systematic policies, procedures, and practices to protect their employees from and allow them to recognize, job-related safety and health hazards. The program shall include provisions for the systematic identification, evaluation, prevention and control of general work site hazards, specific job hazards, and potential hazards that may arise from foreseeable construction methods and conditions, as well as providing a competent person to conduct frequent and regular inspections. Each employee must be instructed in the recognition and avoidance of unsafe conditions and the regulations applicable to the work environment.
- d. The Contractor shall immediately notify the CO of any accident, incident, or exposure resulting in a fatality, lost-time injury, or property loss/damage of \$2,500 or more arising out of work performed under this contract. The Contractor shall investigate all work-related accidents/incidents to the extent necessary to determine their cause(s) and furnish the CO an investigative report outlining findings and proposed or completed corrective actions. The contractor shall, when required by the CO, have a separate and complete independent investigation of the accident/incident, and submit a comprehensive report of findings and recommendations to the CO. The CO shall consult with the CORR, CR, SR/FR and Service safety personnel in reviewing the investigation report and corrective actions. If the contractor fails or refuses to institute prompt corrective action, the CO may invoke the suspension-of-work clause in this contract or any other remedy available to the government. Any delay or cost resulting from a safety-related suspension of work will be borne by the Contractor.
- e. In the event of an accident/incident, the Contractor shall be responsible for providing and obtaining appropriate medical and emergency assistance. Except for rescue and emergency measures, the scene of the accident/incident shall not be disturbed, or the operation resumed until the on-site aspect of the investigation has been completed.
- f. Service safety personnel and representatives from Federal, State, and local government agencies shall have the right to examine and investigate at sites or areas where work under this contract is being performed. The absence of such investigations shall not relieve the contractor of their safety program responsibilities.

4. ENVIRONMENTAL

The contractor is responsible for establishing and maintaining compliance with all applicable laws, regulations, rules, and standards, including without limitation, those regulations, rules, and standards, promulgated for the administration and enforcement of the following laws: the Comprehensive

Environmental Response, Compensation and Liability Act (CERCLA) as amended by Superfund Amendments and Reauthorization Act (SARA); Emergency Planning and Community Right-to-Know Act (EPCRA); Clean Air Act (CAA); Clean Water Act (CWA); Toxic Substances Control Act (TSCA); and Solid Waste Disposal Act (SWDA), as amended by Resource Conservation and Recovery Act (RCRA).

5. PROGRESS MEETINGS

- a. The Contractor shall be available to meet with the CO or his/her representative at the job site during construction to discuss work progress.
- b. Meetings will be scheduled by the CO with timely notification to the Contractor.
- c. At the progress meetings, the Contractor shall give oral reports of the progress on the project to the CO. If the work is behind schedule, the Contractor shall be prepared to (i) discuss the work and any causes of work delay(s); (ii) present a plan to bring the work back into conformance with the schedule; or, if necessary (iii) to propose a revised work schedule.

6. SUBMITTALS

As detailed in SOW section 1.10.1

Submit for approval of the Contracting Officer within 10 days of Notice of Award, a Design/Build Management Plan for this project which includes a design review meetings and design submittals. The Contracting Officer may revise this schedule in consultation with the DB and FWS Engineering Project Manager and when approved this will become the schedule for the design portion of the project. There will be a minimum of four design phase milestones: A Design Kickoff Meeting; a Preliminary Construction Document (50%) review; a Pre-final Documents (90%) review, and a Final Documents review (100%). The review aspects shall include all aspects of design.

As detailed in SOW section 3.1.9

Product and Material Submittals: During construction, Contractor shall provide design consultants with product and material submittals for all items requiring submittals in the contract specifications. Those items specified on a proprietary basis, by manufacture and/or model number, or with product stamps allowing inspectors to verify compliance with the specifications, do not require submittals, unless the DB elects to do so. This information shall be documented on submittal forms. The DB may use any format they choose for the submittal forms but all shall be identified with the words "Submittal" at the top of the form along with the Government Contract Number, Project Location, Project Title, Specification Section and/or Drawing reference, and the Design-Build Contractor's Name. Submittals shall be logged and filed and shall be part of the Closeout Documents submitted to the Government. As product submittals are generated and answered, submit copies to the COR and CO for information.

The contractor shall email to: -COTR-*Jeffrey Johns*: jeffrey_johns@fws.gov
Copy- *Tom Ketcham*: tom_ketcham@fws.gov

The primary responsibility for overall management and control of submittals lies with the contractor.

7. CONTRACT DRAWINGS AND SPECIFICATIONS

- a. The Government will provide to the Contractor, without charge, one set of contract drawings and specifications.
- 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 CO of discrepancies, if any.
 - (4) Be responsible for any errors that might have been avoided by complying with this paragraph

- (5) Reproduce and print contract drawings and specifications as needed. (After award, if additional copies of specifications and drawings are available, they will be provided to the contractor.)
- c. 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.

8. "AS BUILT" RECORD DRAWINGS

- a. When construction begins, contractor shall maintain in proper order, one (1) complete set of clean prints of all drawings on the project site.
- b. The Contractor shall neatly inscribe, in red ink or pencil, all changes in work, and the dates of such changes, on the prints. The changes shall be noted in sufficient detail and clarity to accurately portray all "as built" conditions.
- c. At the time of final inspection, the Contractor shall present the "as built" drawings to the CO.

9. APPLICABLE WAGE RATE DECISION

The Secretary of Labor has decided of the minimum prevailing wage rates which are to be paid to the classes of labor to be employed on this project. The decision number and date with minimum rates for this project are shown in Section J. The Contractor must furnish copies of his payrolls to the CO, weekly, seven (7) days after close of payroll period.

10. WORK HOURS

Working hours for the Contractor will be from 7:00 a.m. thru 4:00 p.m., Monday thru Friday, excluding Saturdays, Sundays, and Holidays. Advance coordination with the CO is required prior to working at any other time.

11. PRECONSTRUCTION CONFERENCE

- a. After award, the Contractor shall attend a preconstruction conference with representatives of the Government at a time and place mutually agreed upon. (See Preconstruction Conference, Section I, FAR Clause 52.236-26.)

12. CHANGES

During the performance of this contract, various Government personnel will periodically appear on the job site to inspect contractor performance. The contractor is advised that **ONLY** the CO has the authority to direct or approve any change for work that will affect the price, quality, and quantity or performance time.

13. COST BREAKDOWN OF CONTRACT PAYMENTS

- a. Contractors must furnish a cost breakdown of any lump sum items which will provide the basis for progress payments. The cost breakdown shall be submitted using FWS Application and Certificate for Payment and each item shall include overhead and profit. Contractor and FI at the site must agree on the percentage of work completed at the end of each month. Contractor will submit the FWS Application and Certificate for Payment thru IPP on monthly bases for payment. The FWS Application and Certificate for Payment **must** be signed by the FI and COTR prior to uploading in IPP or it will be returned to the Contractor and will delay payment. Once payment request comes thru IPP, with a correctly signed FWS Application and Certificate for payment, CO, thru IPP who approves and processes for payment.
- b. Payments are authorized by FAR Clause 52.232-5, which requires that the Contractor certify with

each payment request that he has paid or will pay with the proceeds of the payment his employees and subcontractors.

14. PROGRESS SCHEDULE/REPORTS

A contract progress schedule is required within 14 days after work commences. Actual progress must be reported on a contract progress report every two weeks. A copy of these forms shall be provided to you. (See Schedules for Construction Contracts, Section I, FAR Clause 52.236-15.)

15. MODIFICATION PROPOSALS-PRICE BREAKDOWN

- a. The Contractor shall furnish an itemized price breakdown, within the time specified by the Contracting Officer, with any proposal for a contract modification.
- b. The price breakdown:
- c. Must include sufficient detail of all costs for—
 - (1) Material.
 - (2) Labor.
 - (3) Equipment.
 - (4) Subcontracts; and
 - (5) Overhead and Profit; and
- d. Must cover all work involved in the modification, whether the work was deleted, added, or changed.
- e. The Contractor shall provide similar price breakdowns to support any amounts claimed for subcontracts.
- f. The Contractor's proposal shall include a justification for any time extension proposed. A revised progress schedule will be required if time is adjusted.

16. QUALITY CONTROL

The Contractors Quality Control Inspector and/or Superintendent shall ensure all items on the Pre-Final Punch List, rejected and nonconforming work, along with all remaining work conforms to the contract terms, construction documents and industry standards, prior to the final inspection. The Contractor is responsible for maintaining its own pre final and final inspection records. The Contractor will be legally and financially responsible for not completing all the contract requirements in accordance with the contract terms.

17. BENEFICIAL USE OR OCCUPANCY

The Contractor shall complete all inspections and commissioning requirements prior to **final inspection**. The warranty shall be issued in accordance with FAR 52.246.21. Extended warranties offered by the contractor and its subcontractors or suppliers may be accepted at the Government's discretion.

18. REPEAT INSPECTIONS

In the event the Contracting Officer finds that the project is not ready for the applicable inspections, (too many discrepancies) the contractor may be held liable for the cost of a repeat inspection. If the inspection involves the Contracting Officer, Contract Specialist, COR, Safety Officer or other key members, these costs may include additional labor, travel, and miscellaneous expense.

SECTION I - Contract Clauses

52.252-2 Clauses Incorporated by Reference. (FEB 1998)

52.202-1 Definitions (JUN 2020)

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 from google search engine under Federal Acquisition Regulations (FAR).

52.203-3 Gratuities (APR 1984)

52.203-5 Covenant Against Contingent Fees. (MAY 2014)

52.203-7 Anti-Kickback Procedures. (JUN 2020)

52.203-8 Cancellation, Rescission and Recovery of Funds for Illegal or Improper Activity (MAY 2014)

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (MAY 2014)

52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JUN 2020)

52.203-16 Preventing Personal Conflicts of Interest (JUN 2020)

52.203-17 Contractor Employee Whistleblower Rights and Requirement to Inform Employees to Whistleblower Rights (JUN 2020)

52.204-1 Approval of Contract. (DEC 1989)

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

(End of Clause)

52.204-4 Printed or Copied Double-Sided on Postconsumer Fiber Content Page (MAY 2011)

Contractor Performance Assessment Reporting System (CPARS)

a. General

i. Threshold

In accordance with FAR Subpart 42.15 and DOI-AAAP 0050, past performance evaluations will be required for each construction contract exceeding \$700,000.

ii. Frequency

Interim evaluations will be prepared at least annually when the period of performance exceeds one year. Final evaluations will be prepared at the time the work under the contract is completed.

iii. Registration and Completion Timeframe

Contracts meeting the thresholds above will be registered in CPARS within thirty (30) calendar days of award. Interim and final evaluations will be completed within 120 days

following the end of the assessment period. The 120-day time frame includes the contractor's 60-day comment period. If not completed, the evaluation will be considered noncompliant per Government reporting metrics.

iv. Additional Information

In addition to the information contained in Paragraph H.5 refer to 'Appendix A – Notice to Contractors' located in Section J. Where there is conflict between the two, Paragraph H.5 shall govern.

b. Roles and Responsibilities

- i. Assessing Official (AO) – Responsible for evaluating contractor performance and for validating the proposed ratings and remarks entered by the AOR. AOs have 'signature' authority and can forward evaluations to the CR for review and comments. After receiving and reviewing contractor comments, the AO has the authority to close, modify and/or forward the evaluation to the RO. The AO will be the contracting officer.
- ii. Assessing Official Representative (AOR) – Has the authority to initiate and update evaluations but does not have the authority to send the evaluation to the CR or to finalize an evaluation. The AOR will be the contracting officer's representative.
- iii. Contractor Representative (CR) – Responsible for reviewing and commenting on proposed ratings and remarks for all evaluations forwarded by the AO. The CR shall have the appropriate authority to act on behalf of their company. The CR may be identified as the contractor's 'Past Performance POC' in the System for Award Management (SAM), if so, indicated by the contractor.
- iv. Reviewing Official (RO) – Responsible for ensuring that the evaluation is a fair and accurate evaluation of the contractor's performance for the contract. The RO must acknowledge consideration of any significant discrepancies which may arise between the AO and the CR. The RO will be the Bureau Procurement Chief (BPC). The BPC shall be at least one level above the AO.

c. Evaluation Factors

Each evaluation will include seven (7) evaluation factors (where applicable):

- i. Technical / Quality of Produce or Service.
- ii. Schedule / Timeliness.
- iii. Cost Control (Not Applicable to Firm-Fixed-Price (FFP) Contracts).
- iv. Management or Business Relations.
- v. Small Business Subcontracting (if Applicable).
- vi. Regulatory Compliance; and
- vii. Other Areas. 'Other' can be any additional factor, up to three (3) in total, in which the project delivery team deems them necessary. Please note that any factor can be broken down into subfactors.

d. Evaluation Ratings

Each evaluation factor and subfactor will be rated in accordance with the five-scale rating system, as outlined in Tables 42-1 or 42-2 of FAR Subpart 42.15. Ratings from Table 42-1 (i.e. Exceptional, Very Good, Satisfactory, Marginal and Unsatisfactory) will be used for all factors and subfactors, except for 'Small Business Subcontracting.' That factor will utilize the ratings from Table 42-2.

e. Evaluation Narratives

Evaluations should include a clear, non-technical description of the principal purpose of the contract. The evaluation should reflect how the contractor performed. The evaluation should include clear, relevant information that accurately depicts the contractor's performance, and be based on objective facts supported by program and contractor or order performance data. Evaluations should be tailored to the contract type, size content and complexity of the contractual requirements. The narratives for each factor and subfactor's rating must reflect the definitions and be justified per Tables 42-1 or 42-2 of FAR Subpart 42.15.

f. Government Completion of Evaluations

Annual interim and final performance evaluations will be provided to the contractor as soon as practicable, after the one-year mark has passed and after completion of the contract, respectively. Evaluations will be prepared and submitted using the website <https://www.cpars.gov>.

g. Contractor Notification of Evaluations

Once submitted by the Government, the CR will receive a CPARS-generated system notification stating that an evaluation is ready for review. Please note that if the CR is no longer with the company or if their email address has changed, the CPARS notification may not be received; therefore, it is the responsibility of the contractor to ensure that their CR is up-to-date at all times. If a CR needs to be updated, immediately notify the CO. Information required for the new CR shall include: Company, Name, Title, Email Address and Phone Number.

h. Contractor's Response Period

Once submitted by the Government, the contractor will have up to sixty (60) days from the date of receipt in CPARS to submit comments, rebut statements or provide additional information. If no response is received in sixty (60) days, the evaluation will automatically be returned to the Government with the following system-generated statement:

"The report was delivered / received by the contractor on MM/DD/YYYY. The contractor neither signed nor offered comment in response to this assessment."

i. Contractor Concur with Government's Evaluation

If the contractor agrees with the Government's evaluation, they shall state their concurrence (i.e. state "No comment") and return the evaluation back to the Government for finalization. The AOR may then close the evaluation.

j. Contractor Does Not Concur with Government's Evaluation

If the contractor disagrees with the Government's evaluation and would like to discuss it, they may request a meeting in writing to the CO no later than seven (7) days following the receipt of the evaluation. In their response in CPARS, they shall specifically state what point(s) or area(s) of the Government's evaluation they disagree with and why.

Upon completion, return the evaluation back to the Government for review. The RO will review the disagreement(s) and either have 1) the AO reevaluate and resubmit the evaluation to the RO for review or

2) make no changes at all. Regardless of the decision, the RO should provide comments, sign and close the evaluation. The final evaluation rating and decision(s) are at the RO's own discretion.

k. Completed Evaluations and Use for Future Procurements

Completed evaluations are automatically sent to from CPARS to the Past Performance

Information Retrieval System (PPIRS). Government Agencies will use the past performance information in PPIRS for future source selection purposes for up to three years (six years for construction and architect-engineer contracts) from the time of evaluation completion.

52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards. (JUN 2020)

52.204-13 System for Award Management Maintenance (OCT 2018)

52.204-22 Alternative Line Item Proposal. (JAN 2017)

52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (JUN 2020)

52.209-9 Updates of Publicly Available Information Regarding Responsibility Matters. (OCT 2018)

52.209-10 Prohibition on Contracting with Inverted Domestic Corporation (NOV 2015)

52.211-5 Material Requirements. (AUG 2000)

52.211-12 -- Liquidated Damages -- Construction.

As prescribed in [11.503](#)(b), insert the following clause in solicitations and contracts:

Liquidated Damages -- Construction (Sept 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 \$235.00 for each calendar day of delay until the work is completed or accepted.

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

(End of Clause)

52.211-18 Variation in Estimated Quantity, (APR 1984)

52.215-2 Audit and Records --Negotiation (JUN 2020)

52.215-8 Order of Precedence - Uniform Contract Format. (OCT 1997)

52.215-10 Price Reduction for Defective Certified Cost or Pricing Data. (AUG 2011)

52.215-12 Subcontractor Certified Cost or Pricing Data. (JUN 2020)

52.215-15 Pension Adjustments and Asset Reversions. (OCT 2010)

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)

52.216-24 Limitation of Government Liability. (APR 1984)

52.219-6 Notice of Total Small Business Set-Aside. (NOV 2020)

52.219-8 Utilization of Small Business Concerns. (OCT 2018)

52.219-14 Limitations on Subcontracting (MAR 2020)

52.219-28 Post-Award Small Business Program Representation (NOV 2020)

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. (MAR 2018)

52.222-6 Construction Wage Rate Requirements. (AUG 2018)

52.222-7 Withholding of Funds. (MAY 2014)

52.222-8 Payrolls and Basic Records. (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 Davis-Bacon and Related Act Regulations. (MAY 2014)

52.222-14 Disputes Concerning Labor Standards. (FEB 1988)

52.222-15 Certification of Eligibility. (MAY 2014)

52.222-20 Contracts for Materials, Supplies, Articles and Equipment (JUN 2020)

52.222-21 Prohibition of Segregated Facilities. (APR 2015)

52.222-23 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction (FEB 1999)

52.222-26 Equal Opportunity. (SEPT 2016)

52.222-27 Affirmative Action Compliance Requirements for Construction. (APR 2015)

52.222-35 Equal Opportunity for Veterans. (JUN 2020)

52.222-36 Affirmative Action for Workers with Disabilities. (JUN 2020)

52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans. (JUN 2020)

52.222-50 Combating Trafficking in Persons. (OCT 2020)

52.222-54 Employment Eligibility Verification. (OCT 2015)

52.222-55 Minimum Wages Under Executive Order 13659 (NOV 2020)

52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts. (SEPT 2013)

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)

52.223-15 Energy Efficiency in Energy-Consuming Products. (MAY 2020)

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. (JUN 2020)

52.223-20 Aerosols. (JUN 2016)

52.223-21 Foams. (JUN 2016)

52.225-9 Buy American—Construction Materials. (FEB 2021)

As prescribed in [25.1102](#)(a), insert the following clause:

BUY AMERICAN-CONSTRUCTION MATERIALS (FEB 2021)

(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 Federal Acquisition Regulation (FAR) [2.101](#));
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

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

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

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

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 55 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

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

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

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

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

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

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

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

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

(b) Domestic preference.

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

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

_____ "*none*" _____ [*Contracting Officer to list applicable excepted materials or indicate "none"*]

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

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

(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)(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 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 decide.

(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)*	
Item1:				
Foreign construction material	_____	_____	_____	
Domestic construction material	_____	_____	_____	

	Item2:	_____	_____	_____	
	Foreign construction material	_____	_____	_____	
	Domestic construction material				

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

(End of clause)

52.225-10 Notice of Buy American Requirement—Construction Materials. (MAY 2014)

As prescribed in [25.1102\(b\)\(1\)](#), insert the following provision:

NOTICE OF BUY AMERICAN REQUIREMENT—CONSTRUCTION MATERIALS (MAY 2014)

(a) Definitions. “Commercially available off-the-shelf (COTS) item,” “construction material,” “domestic construction material,” and “foreign construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Buy American—Construction Materials” (Federal Acquisition Regulation (FAR) clause [52.225-9](#)).

(b) Requests for determinations of inapplicability. An offeror requesting a determination regarding the inapplicability of the Buy American statute should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR [52.225-9](#) in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American statute before submitting its offer or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) Evaluation of offers.

(1) The Government will evaluate an offer requesting exception to the requirements of the Buy American statute, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR [52.225-9](#).

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

(d) Alternate offers.

(1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR [52.225-9](#), the offeror also may submit an alternate offer based on use of equivalent domestic construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate [Standard Form 1442](#) for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR [52.225-9](#) for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR [52.225-9](#) does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested—

- (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
- (ii) May be accepted if revised during negotiations.

(End of provision)

52.225-13 Restrictions on Certain Foreign Purchases. (FEB 2021)

52.225-22 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials. (JAN 2021)

As prescribed in [25.1102](#)(e), insert the following provision:

NOTICE OF REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS-BUY AMERICAN STATUTE-CONSTRUCTION MATERIALS (JAN 2021)

(a) *Definitions.* "Construction material," "domestic construction material," "foreign construction material," "manufactured construction material," "steel," and "unmanufactured construction material," as used in this provision, are defined in the clause of this solicitation entitled "Required Use of Iron, Steel, and Manufactured Goods-Buy American statute-Construction Materials" (Federal Acquisition Regulation (FAR) clause [52.225-21](#)).

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) or the Buy American statute should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The Offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR [52.225-21](#) in the request. If an offeror has not requested a determination regarding the inapplicability of section 1605 of the Recovery Act or the Buy American statute before submitting its offer, or has not received a response to a previous request, the Offeror shall include the information and supporting data in the offer.

(c) Evaluation of offers.

(1) If the Government determines that an exception based on unreasonable cost of domestic construction material applies in accordance with FAR [25.604](#), the Government will evaluate an offer requesting exception to the requirements of section 1605 of the Recovery Act or the Buy American statute by adding to the offered price of the contract-

(i) 25 percent of the offered price of the contract, if foreign manufactured construction material is incorporated in the offer based on an exception for unreasonable cost of comparable manufactured domestic construction material; and

(ii) 20 percent of the cost of foreign unmanufactured construction material included in the offer based on an exception for the unreasonable cost of comparable domestic unmanufactured construction material.

(2) If the solicitation specifies award on the basis of factors in addition to cost or price, the Contracting Officer will apply the evaluation factors as specified in paragraph (c)(1) of this provision and use the evaluated price in determining the offer that represents the best value to the Government.

(3) Unless paragraph (c)(2) of this provision applies, if two or more offers are equal in price, the Contracting Officer will give preference to an offer that does not include foreign construction material excepted at the request of the Offeror on the basis of unreasonable cost of comparable domestic construction material.

(d) Alternate offers.

(1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(3) of the clause at FAR [52.225-21](#), the Offeror also may submit an alternate offer based on use of equivalent domestic construction material.

(2) If an alternate offer is submitted, the Offeror shall submit a separate Standard Form 1442 for the alternate offer and a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR [52.225-21](#) for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR [52.225-21](#) does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the Offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested-

- (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
- (ii) May be accepted if revised during negotiations.

(End of Provision)

Alternate I (May2014). As prescribed in [25.1102](#)(e), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) or the Buy American statute shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR [52.225-21](#).

52.225-25 Prohibition on Contracting with Entities Engaging in Sanctioned Activities Relating to Iran--Representation and Certification. (JUN 2020)

52.227-1 Authorization and Consent. (JUN 2020)

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement. (JUN 2020)

52.227-4 Patent Indemnity-Construction Contracts. (DEC 2007)

52.228-1 Bid Guarantee (Sep 1996)

As prescribed in [28.101-2](#) , insert a provision or clause substantially as follows:

Bid Guarantee (Sept 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 \$ 50,000.00_, whichever is less.

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

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

(End of clause)

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. (FEB 2021)

52.228-12 Prospective Subcontractor Requests for Bonds. (MAY 2014)

52.228-13 Alternative Payment Protections. (JUL 2000)

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

Payment Bond or Irrevocable Letter of Credit

(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 [10] 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.

(End of Clause)

52.228-14 Irrevocable Letter of Credit. (NOV 2014)

52.228-15 Performance and Payment Bonds-Construction (JUN 2020)

PERFORMANCE AND PAYMENT BONDS-CONSTRUCTION (JUN 2020)

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

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

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

(1) *Performance bonds* ([Standard Form 25](#)). The penal amount of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(2) *Payment Bonds* ([Standard Form 25A](#)). The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(3) Additional bond protection.

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

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

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

(d) *Surety or other security for bonds.* The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the *Federal Register* or may be obtained from the:

U.S. Department of the Treasury,
Financial Management,
Service Surety Bond Branch,
3700 East West Highway,
Room 6 F01,
Hyattsville, MD 20782.

Or via the internet at <http://www.fms.treas.gov/c570/>.

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

(End of clause)

52.229-3 Federal, State, and Local Taxes (FEB 2013)

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 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. 15).

(i) *Limitation because of un-definitized work.* Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on un-definitized 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)

52.232-16 Progress Payments (JUN 2020)

52.232-17 Interest (MAY 2014)

52.232-23 Assignment of Claims. (MAY 2014)

52.232-27 Prompt Payment for Construction Contracts. (JAN 2017)

52.232-33 Payment by Electronic Funds Transfer- System for Award Management (OCT 2018)

52.232-39 Unenforceability of Unauthorized Obligations (JUN 2013)

- 52.232-40 Providing Accelerated Payment to Small Business Subcontractors. (DEC 2013)
- 52.233-1 Disputes. (MAY 2014)
- 52.233-1 Disputes. (MAY 2014) - Alternate I (DEC 1991)
- 52.233-3 Protest after Award. (AUG 1996)
- 52.233-4 Applicable Law for Breach of Contract Claim. (OCT 2004)
- 52.236-2 Differing Site Conditions (APR 1984)
- 52.236-3 Site Investigation and Conditions Affecting the Work (APR 1984)
- 52.236-5 Material and Workmanship, (APR 1984)
- 52.236-7 Permits and Responsibilities (NOV 1991)
- 52.236-8 Other Contracts. (APR 1984)
- 52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements. (APR 1984)
- 52.236-10 Operations and Storage Areas. (APR 1984)
- 52.236-11 Use and Possession Prior to Completion. (APR 1984)
- 52.236-12 Cleaning Up. (APR 1984)
- 52.236-13 Accident Prevention. (NOV 1991)
- 52.236-14 Availability and Use of Utility Services. (APR 1984)
- 52.236-21 Specifications and Drawings for Construction. (FEB 1997)
- 52.236-26 Preconstruction Conference. (FEB 1995)
- 52.242-13 Bankruptcy. (JUL 1995)
- 52.242-14 Suspension of Work (APR 1984)
- 52.242-15 Stop-Work Order (AUG 1989)
- 52.243-4 Changes. (JUN 2007)
- 52.243-5 Changes and Changed Conditions. (APR 1984)
- 52.244-6 Subcontracts for Commercial Items. (NOV 2020)

As prescribed in [44.403](#) , insert the following clause:

SUBCONTRACTS FOR COMMERCIAL ITEMS (NOV 2020)

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

Commercial item and *commercially available off-the-shelf item* have the meanings contained in Federal Acquisition Regulation (FAR) [2.101](#).

Subcontract includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or non-developmental items as components of items to be supplied under this contract.

(c)

(1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (JUN 2020) ([41 U.S.C. 3509](#)), if the subcontract exceeds the threshold specified in FAR [3.1004](#)(a) on the date of subcontract award, and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) [52.203-15](#), Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.

(iii) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017).

(iv) [52.204-21](#), Basic Safeguarding of Covered Contractor Information Systems (JUN 2016), other than subcontracts for commercially available off-the-shelf items, if flow down is required in accordance with paragraph (c) of FAR clause [52.204-21](#).

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

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

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

(viii) [52.222-21](#), *Prohibition of Segregated Facilities* (APR 2015).

(ix) [52.222-26](#), Equal Opportunity (*Sept* 2015) (E.O.11246).

(x) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ([38 U.S.C.4212](#)(a));

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

(xii) [52.222-37](#), Employment Reports on Veterans (JUN 2020) ([38 U.S.C.4212](#)).

(xiii) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496), if flow down is required in accordance with paragraph (f) of FAR clause [52.222-40](#).

(xiv)

(A) [52.222-50](#), Combating Trafficking in Persons (OCT 2020) ([22 U.S.C. chapter 78](#) and E.O. 13627).

(B) Alternate I (MAR 2015) of [52.222-50](#)([22 U.S.C. chapter 78](#) and E.O. 13627).

(xv) [52.222-55](#), Minimum Wages under Executive Order 13658 (NOV 2020), if flow down is required in accordance with paragraph (k) of FAR clause [52.222-55](#).

(xvi) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706), if flow down is required in accordance with paragraph (m) of FAR clause [52.222-62](#).

(xvii)

(A) [52.224-3](#), Privacy Training (JAN 2017) ([5 U.S.C. 552a](#)) if flow down is required in accordance with [52.224-3](#)(f).

(B) Alternate I (JAN 2017) of [52.224-3](#), if flow down is required in accordance with [52.224-3](#)(f) and the agency specifies that only its agency-provided training is acceptable).

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

(xix) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (DEC 2013), if flow down is required in accordance with paragraph (c) of FAR clause [52.232-40](#).

(xx) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) ([46 U.S.C. App.1241](#) and [10 U.S.C.2631](#)), if flow down is required in accordance with paragraph (d) of FAR clause [52.247-64](#).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)

52.249-2 Termination for Convenience of the Government (Fixed Price) (APR 2012)

52.249-10 Default (Fixed –Price Construction) (APR 1984)

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/farqueryframe.html>
<http://farsite.hill.af.mil/search.htm>

(End of provision)

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/farqueryframe.html>
<http://farsite.hill.af.mil/search.htm>

(End of clause)

52.252-4 Alterations in Contract. (APR 1984)

Portions of this contract are altered as follows: []

(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)

52.252-6 Authorized Deviations in Clauses (NOV 2020)

52.253-1 Computer Generated Forms. (JAN 1991)

1452.204-70 Release of Claims. (JUL 1996)

After completion of work and prior to final payment, the Contractor shall furnish the Contracting Officer

with a release of claims against the United States relating to this contract. The Release of Claims form (DI-137) shall be used for this purpose. The form provides for exception of specified claims from operation of the release.

(End of Clause)

1452.228-70 Liability Insurance. (JUL 1996)

(a) The Contractor shall procure and maintain during the term of this contract, and any extension thereof, liability insurance furnished by an insurance company that is acceptable by the Contracting Officer. The named insured parties under the policy shall be the Contractor and the United States of America. The amounts of the insurance shall be not less than as follows:

\$1,000,000 each person*

\$1,000,000 each occurrence*

\$500,000 property damage*

1. **General liability**= Minimum. \$500,000 per occurrence

2. **Automobile liability.**

a Minimum \$200,000 per person,

b Minimum \$500,000 per occurrence for bodily injury and

c. Minimum \$20,000 per occurrence for property damage.

3. **Workers' compensation and employer's liability= Minimum \$100,000** shall be required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.

a. *Workers' compensation and employer's liability.* Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.

(b) Each policy shall have a certificate evidencing the insurance coverage. The insurance certificate shall contain an endorsement to notify the Contracting Officer 30 days prior to the effective date of cancellation or termination of the policy or certificate; or modification of the policy or certificate which may adversely affect the interest of the Government in such insurance. The certificate shall identify the contract number, the name and address of the Contracting Officer; as well as the insured, the policy number, and a brief description of contract services to be performed. The contractor shall furnish the Contracting Officer with a copy of an acceptable insurance certificate prior to beginning the work.

*These amounts to be set by the Contracting Officer.

SECTION J - List of Documents, Exhibits and Other Attachments

- Attachment #1 Statement of Work 15 Pages
- Attachment #2 WDOL Davis Bacon Wages 8 Pages
- Attachment #3 Technical/Past and Present Performance Questionnaire 4 Pages
- Attachment #4 Bid Schedule 1 Page
- Attachment #5 SOW Photos 7 Pages
- Attachment #6 Tish Fish Topo 1 Page
- Attachment #7 Tish Area 5-6 Drain 1 Page
- Attachment #8 Rendering Tish Box Logsskp 1 Page

If AutoCAD or Sketchup files are needed, please send an email to Tom_Ketcham@fws.gov

SECTION K - Representations, Certifications, and Other Statements of Bidders

52.204-7 -- System for Award Management.

As prescribed in [4.1105\(a\)\(1\)](#), use the following provision:

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 the SAM;
- (2) The offeror has completed the Core, Assertions, and Representations and Certification, and Points of contact sections of the registration in the 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.
- (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 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 the SAM.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at 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) Trade style, 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)

Alternate I (Oct 2018). As prescribed in [4.1105\(a\)\(2\)](#), substitute the following paragraph (b)(1) for paragraph (b)(1) of the basic provision:

(b) (1) An Offeror is required to be registered in SAM as soon as possible. If registration is not possible when submitting an offer or quotation, the awardee shall be registered in SAM in accordance with the requirements of clause 52.204-13, System for Award Management Maintenance.

52.204-8 Annual Representations and Certifications. (MAR 2020)

As prescribed in [4.1202\(a\)](#), insert the following provision:

ANNUAL REPRESENTATIONS AND CERTIFICATIONS (MAR 2020)

(a)

(1) The North American Industry Classification System (NAICS) code for this acquisition is 237310.

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

(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](#), System for Award Management, is not included in this solicitation, and the Offeror has an active registration in the System for Award Management (SAM), the Offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:

(i) Paragraph (d) applies.

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

(c)

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

- (i) [52.203-2](#), Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—

- (A) The acquisition is to be made under the simplified acquisition procedures in [part 13](#);

- (B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or

- (C) The solicitation is for utility services for which rates are set by law or regulation.
- (ii) [52.203-11](#), Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.
- (iii) [52.203-18](#), Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation. This provision applies to all solicitations.
- (iv) [52.204-3](#), Taxpayer Identification. This provision applies to solicitations that do not include the provision at [52.204-7](#), System for Award Management.
- (v) [52.204-5](#), Women-Owned Business (Other Than Small Business). This provision applies to solicitations that-
- (A) Are not set aside for small business concerns;
 - (B) Exceed the simplified acquisition threshold; and
 - (C) Are for contracts that will be performed in the United States or its outlying areas.
- (vi) [52.204-26](#), Covered Telecommunications Equipment or Services-Representation. This provision applies to all solicitations.
- (vii) [52.209-2](#), Prohibition on Contracting with Inverted Domestic Corporations-Representation.
- (viii) [52.209-5](#), Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.
- (ix) [52.209-11](#), Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.
- (x) [52.214-14](#), Place of Performance-Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.
- (xi) [52.215-6](#), Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.
- (xii) [52.219-1](#), Small Business Program Representations (Basic, Alternates I, and II). This provision applies to solicitations when the contract 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 apply to solicitations issued by DoD, NASA, or the Coast Guard.
 - (C) The provision with its Alternate II applies to solicitations that will result in a multiple-award contract with more than one NAICS code assigned.
- (xiii) [52.219-2](#), Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.
- (xiv) [52.222-22](#), Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at [52.222-26](#), Equal Opportunity.
- (xv) [52.222-25](#), Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at [52.222-26](#), Equal Opportunity.
- (xvi) [52.222-38](#), Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.
- (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 apply.

(C) If the acquisition value is \$50,000 or more but is less than \$83,099, the provision with its Alternate II applies.

(D) If the acquisition value is \$83,099 or more but is less than \$100,000, the provision with its Alternate III applies.

(xxii) [52.225-6](#), Trade Agreements Certificate. This provision applies to solicitations containing the clause at [52.225-5](#).

(xxiii) [52.225-20](#), Prohibition on Conducting Restricted Business Operations in Sudan-Certification. This provision applies to all solicitations.

(xxiv) [52.225-25](#), Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certifications. This provision applies to all solicitations.

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

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

[Contracting Officer check as appropriate.]

___ (i) [52.204-17](#), Ownership or Control of Offeror.

___ (ii) [52.204-20](#), Predecessor of Offeror.

___ (iii) [52.222-18](#), Certification Regarding Knowledge of Child Labor for Listed End

Products.

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

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

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

___ (vii) [52.227-6](#), Royalty Information.

___ (A) Basic.

___ (B) Alternate I.

___ (viii) [52.227-15](#), Representation of Limited Rights Data and Restricted Computer

Software.

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

FAR Clause #	Title	Date	Change
_____	_____	_____	_____

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

(End of provision)

Alternate I (MAR 2020). As prescribed in [4.1202\(a\)](#), substitute the following paragraph (a) for paragraph (a) of the basic provision:

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

NAICS Code
— _____

[Contracting Officer to insert NAICS codes and size standards].

(2) 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 (i.e., nonmanufacturer), is 500 employees.

52.209-5 Certification Regarding Responsibility Matters. (AUG 2020)

As prescribed in [9.104-7\(a\)](#), insert the following provision:

CERTIFICATION REGARDING RESPONSIBILITY MATTERS (AUG 2020)

(a)

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

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

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

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

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

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

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

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

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

(2) *Examples.*

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

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. During the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

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

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

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

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

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

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

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

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

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

(End of provision)

52.209-7 Information Regarding Responsibility Matters.

As prescribed at [9.104-7](#) (b), insert the following provision:

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 (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

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

(i) In a criminal proceeding, a conviction.

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

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

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

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

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

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

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

(End of provision)

52.236-28 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) 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)

52.223-1 Biobased Product Certification. (May 2012)

52.223-4 Recovered Material Certification. (MAY 2008)

1452.215-71 Use and Disclosure of Proposal Information (APR 1984)

(a) Definitions. For the purposes of this provision and the Freedom of Information Act (5 U.S.C. 552), the following terms shall have the meaning set forth below:

(1) "Trade Secret" means an unpatented, secret, commercially valuable plan, appliance, formula, or process, which is used for making, preparing, compounding, treating, or processing articles or materials which are trade commodities.

(2) "Confidential commercial or financial information" means any business information (other than trade secrets) which is exempt from the mandatory disclosure requirement of the Freedom of Information Act, 5 U.S.C. 552. Exemptions from mandatory disclosure which may be applicable to business information contained in proposals include exemption (4), which covers "commercial and financial information obtained from a person and privileged or confidential," and exemption (9), which covers "geological and geophysical information, including maps, concerning wells."

(b) If the offeror, or its subcontractor(s), believes that the proposal contains trade secrets or confidential commercial or financial information exempt from disclosure under the Freedom of Information Act, (5 U.S.C. 552), the cover page of each copy of the proposal shall be marked with the following legend:

"The information specifically identified on pages _____ of this proposal constitutes trade secrets or confidential commercial and financial information which the offeror believes to be exempt from disclosure under the Freedom of Information Act. The offeror requests that this information not be disclosed to the public, except as may be required by law. The offeror also requests that this information not be used in whole or part by the government for any purpose other than to evaluate the proposal, except that if a contract is awarded to the offeror as a result of or in connection with the submission of the proposal, the Government shall have the right to use the information to the extent provided in the contract."

(c) The offeror shall also specifically identify trade secret information and confidential commercial and financial information on the pages of the proposal on which it appears and shall mark each such page with the following legend:

"This page contains trade secrets or confidential commercial and financial information which the offeror believes to be exempt from disclosure under the Freedom of Information Act and which is subject to the legend contained on the cover page of this proposal."

(d) Information in a proposal identified by an offeror as trade secret information or confidential commercial and financial information shall be used by the Government only for the purpose of evaluating the proposal, except that (i) if a contract is awarded to the offeror as a result of or in connection with submission of the proposal, the Government shall have the right to use the information as provided in the contract, and (ii) if the same information is obtained from another source without restriction it may be used without restriction.

(e) If a request under the Freedom of Information Act seeks access to information in a proposal identified as trade secret information or confidential commercial and financial information, full consideration will be given to the offeror's view that the information constitutes trade secrets or confidential commercial or financial information. The offeror will also be promptly notified of the request and given an opportunity to provide additional evidence and argument in support of its position, unless administratively unfeasible to do so. If it is determined that information claimed by the offeror to be trade secret information or confidential commercial or financial information is not exempt from disclosure under the Freedom of Information Act, the offeror will be notified of this determination prior to disclosure of the information.

(f) The Government assumes no liability for the disclosure or use of information contained in a proposal if not marked in accordance with paragraphs (b) and (c) of this provision. If a request under the Freedom of Information Act is made for information in a proposal not marked in accordance with paragraphs (b) and (c) of this provision, the offeror concerned shall be promptly notified of the request and given an opportunity to provide its position to the Government. However, failure of an offeror to mark information contained in a proposal as trade secret information or confidential commercial or financial information will be treated by the Government as evidence that the information is not exempt from disclosure under the

Freedom of Information Act, absent a showing that the failure to mark was due to unusual or extenuating circumstances, such as a showing that the offeror had intended to mark, but that markings were omitted from the offeror's proposal due to clerical error.

(End of provision)

52.233-2 Service of Protest. (SEP 2006)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from the *Contracting Officer*:

Thomas Ketcham
Tom_ketcham@fws.gov
500 Gold Ave SW, Room 5108
Albuquerque, New Mexico 87102

(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)

SECTION L - Instructions, Conditions, and Notices to Bidders

52.215-1 Instruction to Offerors – Competitive Acquisition. (JAN 2017)

52.216-1 Type of Contract. (APR 1984)

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

(End of Clause)

52.236-27 Site Visit (Construction). (FEB 1995)

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

(b) Site Visits are highly encouraged prior to submitting a proposal. Site visits can be arranged by contacting Kerry Graves. Point of contact:

Name: Kerry Graves
Address: 5501 OK HWY 7 W
Tishomingo, OK 73460
Telephone: (580) 384-5463
EMAIL: Kerry_Graves@fws.gov

(End of provision)

Site visit will be at:

Tishomingo National Fish Hatchery
5501 OK HWY 7W
Tishomingo, OK 73460

Questions:

1. **REQUESTS FOR INFORMATION (RFI).**

- a. Offerors shall electronically submit RFIs directly to the Contract Specialist, Thomas Ketcham (tom_ketcham@fws.gov). At a minimum, RFIs shall include the following information:
 - i. Offeror's Name.
 - ii. Offeror's Representative's Name, Title, Email Address and Phone Number.
 - iii. Clear and Concise Question / Statement; and
 - iv. References to Solicitation Passage(s), Specification Section(s) and Paragraph(s), and / or Drawing(s) to which the RFI is about.
- b. The Government shall respond to RFIs via an amendment to the solicitation.
- c. RFIs shall be submitted no later than ten (10) calendar days prior to the solicitation's closing date / time. The Government may elect to not respond to RFIs submitted after the cutoff date / time.

A responsive proposal shall consist of the following at minimum:

- SF 1442 signed and bid schedule line items prices/proposal
- Bid Schedule
- Technical/Past and Present Performance Questionnaire

PROPOSAL PREPARATION INSTRUCTIONS

GENERAL INFORMATION

A. To assure timely and equitable evaluation of proposals, offerors must follow the instructions contained herein. Offerors are required to meet all solicitation requirements, including terms and conditions, representations and certifications, and technical requirements, in addition to those identified as evaluation factors or subfactors. Failure to meet a requirement may result in a proposal being ineligible for award. Offerors must clearly identify any exception to the solicitation terms and conditions and provide complete accompanying rationale.

Per FAR.204-7, to be eligible for contract award the offeror must be registered in SAM's database, which the primary Government repository for Contractor information required for the conduct of business with the Government.

By submission of a proposal, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

Note: No award can be made to a vendor/contractor unless he has completed the SAM database registration process.

B. The response shall consist of two (2) separate parts; **Part I** - Price Proposal, **Part II** – Technical/Past and Present Performance Questionnaire.

C. The contracting officer has determined there is a high probability of adequate price competition in this acquisition. Upon examination of the initial offers, the contracting officer will review this determination and if, in the contracting officer's opinion, adequate price competition exists no additional cost information will be requested and certification under FAR 15.406-2 will not be required. However, if at any time during this competition the contracting officer determines that adequate price competition no longer exists offerors may be required to submit information other than cost or pricing data to support a determination of price reasonableness. By submission of its proposal, the offeror accedes to all solicitation requirements, including terms and conditions, representations and certifications, and technical requirements. All proposals shall be treated equally except for their prices and performance records. Failure to meet a requirement may result in an offer being determined technically unacceptable.

E. If any exception(s) are taken with this RFP's scope of work, drawings and or specifications, the prospective offeror must notify the Government POC (Point Of Contact listed in Block 9 of the Form SF 1442 - Solicitation, Offer, and Award), prior to submission of any offer/proposal in order for the Government to properly evaluate the exception(s), and make any changes, as appropriate/required, prior to contract award.

F. Offeror's shall insert proposed unit and extended and totals in Section B for each Contract Line Item (CLIN). Any proposal that fails to cite a price for each item or fails to make an entry that indicates service will not be provided for an Item will be rejected as non-conforming to this solicitation.

G. Only firm fixed price proposals will be evaluated. A proposal using a sliding price scale or subject to escalation based on any contingency will not be accepted and will be considered non-conforming to this solicitation.

H. Specific Instructions (email only)

1. PART I – PRICE PROPOSAL

- (a) Complete blocks 14, 15, 17, 19 20A, 20B, and 20C of the Standard Form, SF 1442 (Solicitation, Offer and Award). In doing so, the offeror accedes to the contract terms and conditions as written in the RFP Sections A through K. These sections constitute the model contract.
- (b) Insert proposed unit and extended prices in Section B for each Contract Line Item Number (CLIN) or Sub CLIN (SCLIN), including all option periods. The extended amount must equal the whole dollar unit price multiplied by the number of units.
- (c) For RFP Sections C through K, the offeror is cautioned to review all Sections carefully and complete the necessary fill-ins and certifications. After completing the necessary fill-ins and certifications in Sections C through K, the offeror shall submit those pages that required a fill-in.
- (d) Attached Bid Schedule is to be filled out. Failure to fill-out could result in your bid being non-responsive.

2. PART II – TECHNICAL/PAST AND PRESENT PERFORMANCE QUESTIONNAIRE -

1. Technical/Past and Present Performance Questionnaire document with all the required information must be completed: The Government will evaluate the quality and extent of offeror's experience deemed recent and relevant to the requirements of this RFP. The Government will use the information submitted by the offeror to evaluate them according to Section M of this RFP.

- (a) Provide at least three examples each of past experience with Design-Build contracts done by designers and constructors.
- (b) Provide at least three examples each of past experience, and also technical qualifications of designers, including state registration, and constructors for designing and building water control structures including box culverts and associated earthwork similar to those in this project.
- (c) Provide at least three examples of past experience, and also technical qualifications, including state registration, of designers for performing hydrologic and hydraulic design for drainage structures similar to those in this project.

Note: Engineers and architects performing professional design work on this project shall be licensed in the state of Oklahoma per the Statement of Work.

Contractors may be required to possess and maintain state licenses, as required by Oklahoma state regulations. The following information is provided on construction contractor license requirements in Oklahoma:

Building and General Construction Contractors

In Oklahoma, general contractors are not required to have state licenses to perform their construction services. This includes commercial or residential buildings, roads, bridges and highways, installation of residential and municipal utilities, industrial and oil field installations, and other various projects. Likewise, state licenses are not required of subcontractors who perform general construction services on projects for general contractors. Such services, normally, include areas such as: site clearing and leveling, concrete stemming, framing, carpentry, drywall, painting, guttering, sodding, fencing, etc. Also, state licenses are not required for small general contractors or subcontractors who do commercial or residential renovation, remodeling, and repair construction projects.

Out-of-state Contractors

An out-of-state contractor who obtains a construction contract in Oklahoma is required to complete a special "Non-Resident Contractor" registration with the [Oklahoma Tax Commission](#) (OTC) prior to starting a project. For contracts more than \$100,000, a bond for 10% of the amount is required to be posted (or

the deposit of a cash equivalent amount). Information regarding the special registration and possible bonding is provided in OTC's informational document, "Packet N." The packet can be obtained off OTC's website.

I. FORMAT FOR PROPOSAL PARTS I, AND II SHALL BE AS FOLLOWS:

- (a) The proposals will be 8 1/2" x 11" paper except for fold-outs used for charts, tables, or diagrams, which may not exceed 11" x 17".
- (b) A page is defined as one face of a sheet of paper containing information.
- (c) Typing shall not be less than 12 pitches, for readability.
- (d) Elaborate formats, bindings or color presentations are not desired or required.
(End of provision)

Section M--Evaluation Factors for Award

1. This acquisition is for Full and Open Competition Small Business. A full and open competition between all interested small businesses will be conducted using the **Lowest Price Technically Acceptable** source selection process to evaluate proposals and make an award.

2. The LPTA process is a simplified source selection strategy that deems cost as the sole evaluation criterion provided that technical, management, and past performance are deemed acceptable (pass/fail). Tradeoffs between price and performance in reaching the award decision are not permitted.

3. This is a competitive Lowest Price Technically Acceptable source selection in which competing offeror's past performance history, management, and technical capability will be evaluated on a basis *approximately equal to*, price considerations. By submission of its proposal, the offeror accedes to all solicitation requirements, including terms and conditions, representations and certifications, and technical requirements, in addition to those identified as evaluation factors or subfactors.

All proposals shall be treated equally except for their prices. Failure to meet a requirement may result in a proposal being determined technically unacceptable.

4. The evaluation process shall proceed as follows.

Step 1 - Evaluate all proposals for technical acceptability.

Step 2 - Evaluate price reasonableness of all technically "acceptable" or "reasonably susceptible of being made acceptable" proposals, then rank by total evaluated price.

Step 3 – Award to the lowest priced offeror who meets the technical requirements with a "pass" rating. At this point, the evaluation is complete.

A. **Price Evaluation**. The government shall rank all technically Acceptable and Reasonably Susceptible of Being Made Acceptable proposals by price, including any option prices if applicable. The price evaluation will document reasonableness and affordability of the proposed total evaluated price.

B. **Technical Assessment**. Using Technical/Past and Present Performance Questionnaire document with all the required information included to determine past experience provided by the offerors, the contracting officer and engineer shall seek relevant performance information on all (or a specified number of lowest priced offerors) based on (1) the past and present efforts, as well technical qualifications provided by the offeror and (2) data independently obtained from other Government and commercial sources.

C-1. Relevant performance includes performance of efforts and experience with design and preparation of construction plans and specifications that are similar or approximately the same in scope, magnitude, and complexity than the effort described in this solicitation. The purpose of the past performance evaluation is to allow the government to assess the offeror's ability to perform the effort described in this RFP, based on the offeror's demonstrated present and past performance.

C-2. "Relevant" means the performance being considered must have a logical connection to the work described in the solicitation. Normally, relevance would include such aspects as the product or service similarity, product or service complexity, contract type, and magnitude. Magnitude is important because it will define not only the scope but project similarity to the instant requirement.

C-3. The evaluation will consider past performance information regarding predecessor companies, key personnel who have relevant experience or subcontractors that will perform major or critical aspects of the requirement when such information is relevant to the instant acquisition.

C-4. The following relevancy definitions will be used to rate each offeror as a part of the present/past performance evaluation process. Each of the remaining technically acceptable offerors will be given a relevancy rating as shown below.

C-5. The assessment process will result in an overall performance confidence assessment of Pass or Fail.

C-6. Past performance regarding predecessor companies, key personnel who have relevant experience, or sub-contractors that will perform major or critical aspects of the requirement will be rated as highly as past performance information for the principal offeror. Offerors with no relevant past or present performance history shall receive the rating Fail rating as they cannot provide a positive likelihood of successful performance of the required tasks.

5. If the lowest priced evaluated technically acceptable proposal is judged to have a Passing assessment, that proposal represents the best value for the government and the evaluation process stops at this point. Award shall be made to that offeror without further consideration of any other offers.

6. If the lowest priced offeror is not judged to have a Passing assessment, the next lowest priced offeror will be evaluated and the process will continue (in order by price) until an offeror is judged to have a Passing assessment or until all offerors are evaluated.

7. Offerors are cautioned to submit sufficient information and in the format specified in Section L. Offeror's may be asked to clarify certain aspects of their proposal (*for example*, the relevance of past performance information) or respond to adverse past performance information to which the offeror has not previously had an opportunity to respond. Adverse past performance is defined as past performance information that supports a less than satisfactory rating on any evaluation element or any unfavorable comments received from sources without a formal rating system. Communication conducted to resolve minor or clerical errors would not constitute discussions and the contracting officer reserves the right to award a contract without the opportunity for proposal revision.

8. The government intends to award a contract without discussions with respective offerors. The government, however, reserves the right to conduct discussions if deemed in its best interest.

If any exception(s) are taken with this RFP's drawings and or specifications, the prospective offeror must notify the Government POC (Point Of Contact listed in Block 9 of the Form SF 1442 - Solicitation, Offer, and Award), prior to submission of any offer/proposal in order for the Government to properly evaluate the exception(s), and make any changes, as appropriate/required, prior to contract award.

9. Offeror's shall insert proposed unit and extended and totals in Section B for each Contract Line Item (CLIN). Any proposal that fails to cite a price for each item or fails to make an entry that indicates service will not be provided for an Item will be rejected as non-conforming to this solicitation.

10. Only firm fixed price proposals will be evaluated. A proposal using a sliding price scale or subject to escalation based on any contingency will not be accepted and will be considered non-conforming to this solicitation.

(End of provision)