1. SOLICITATION NUMBER

2. TYPE OF SOLICITATION

3. DATE ISSUED

PAGE OF PAGES

4. CONTRACT NUMBER

5. REQUISITION/PURCHASE REQUEST NUMBER

6. PROJECT NUMBER

7. ISSUED BY

CODE

8. ADDRESS OFFER TO

a. NAME

b. TELEPHONE NUMBER (Include area code) (NO COLLECT CALLS)

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying number, date)

12a. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS?

(If "YES," indicate within how many calendar days after award in Item 12B.)

12b. CALENDAR DAYS

13. ADDITIONAL SOLICITATION REQUIREMENTS:

STANDARD FORM 1442 (REV. 8/2014)

STANDARD FORM 1442

Prescribed by GSA-FAR (48 CFR) 52.236-1(d)

SOLICITATION, OFFER,

AND AWARD

(Construction, Alteration, or Repair)

SOLICITATION

SOLICITATION

IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.

9. FOR INFORMATION

 CALL:

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

SEALED BID (IFB)

NEGOTIATED (RFP)

11. The Contractor shall begin performance within \_\_\_\_\_\_\_\_\_\_\_\_ calendar days and complete it within

 \_\_\_\_\_\_\_\_\_\_\_\_

calendar days after receiving

award,

notice to proceed. This performance period is

mandatory

negotiable. (See \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_).

YES

NO

a.

Sealed offers in original and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_copies to perform the work required are due at the place specified in Item 8 by \_\_\_\_\_\_\_\_\_\_\_\_\_

(hour) local time \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed

envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, the date and time offers are due.

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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ calendar days for Government acceptance after the date offers are due will not be

considered and will be rejected.

1 OF

53

36C26319B0003

X

04-26-2019

438-19-3-3903-0005

438-18-530

36C263

Department of Veterans Affairs

Network 23 Contracting Office (NCO 23)

111 South 18th Plaza, Suite C38

Omaha NE 68102-2077

Department of Veterans Affairs

Network 23 Contracting Office (NCO 23)

111 South 18th Plaza, Suite C38

Omaha NE 68102-2077

Shane Hilts

402-599-2161

Project Number: 438-18-530, Building 5 Halls and Walls (SF)

Contractor shall provide all transportation, tools, materials, components, permits, license, labor and supervision to

complete the demolition of existing flooring, floor preparation, replace flooring, remove wall covering, replace wall

covering, provision of Acrovyn wall protection and corner guards and paint. This project also requires the removal of

existing handrails/crash rails and replacement, renovation and provision of new finishes for museum display cases,

demolition of existing doors, and replacement of fire doors and office doors, as well as provision of and installation

of new ceiling grid and ceiling tiles at the VA Sioux Falls Health Care System, Sioux Falls, South Dakota.

Work includes, but is not limited to general construction, demolition, framing, drywall, electrical, finish work, and

certain other items necessary for completion of this project. All work shall be completed in accordance with project

drawings/specifications and in compliance with the most current version of all applicable codes including, but not

limited to: NFPA 101, International Building Code, ASHRAE, National Electric Code, VA Barrier Free Design Guide, and VA

guidelines for patient safety and infection control.

The overall period of performance for this procurement is 390 calendar days from the issuance of the Notice to Proceed

which includes all lead times for material/equipment acquisition, document preparation, and all submittals.

NOTICE OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS (SDVOSB) SET ASIDE:

This solicitation is issued in accordance with Public Law 109-461, the Veterans Benefits, Healthcare Information and

Technology Act of 2006, Sections 502 and 503, as a set-aside for Service-Disabled Veteran-Owned Small Business (SDVOSB)

contractors. Pursuant to 38 USC 8127(d), competition is restricted to SDVOSB construction firms, as there is a

reasonable expectation that two or more offers from SDVOSB contractors will be received under this solicitation. All

prospective offerors must be verified in the VetBiz.gov database as an SDVOSB to be considered for award. The offeror

MUST be registered in the System for Award Management (SAM)www.sam.gov at time of proposal submission and

maintain that registration to be eligible for award.

NAICS code 236220 is applicable for this procurement with the small business size standard of $36.5 million.

The magnitude of construction for this project is estimated to be between $2,000,000 and $5,000,000.

Please submit all RFI's/questions via e-mail to shane.hilts@va.gov prior to 12:00PM (local time) on Monday, 3 June 2019.

Answers will be provided via a solicitation amendment posted to www.fedbizopps.gov. The Government reserves the right

not to answer any RFIs/questions submitted after the due date/time.

10

390

X

X

52.211-10

X

10

1

12:00 PM CT

06-27-2019

X

120

14. NAME AND ADDRESS OF OFFEROR

15. TELEPHONE NUMBER

16. REMITTANCE ADDRESS

CODE

FACILITY CODE

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of the solicitation, if this offer is

accepted by the Government in writing within \_\_\_\_\_\_\_\_\_\_ calendar days after the date offers are due.

AMOUNTS

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

19. ACKNOWLEDGMENT OF AMENDMENTS

AMENDMENT

NUMBER

DATE.

20a. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER

20b. SIGNATURE

20c. OFFER DATE

21. ITEMS ACCEPTED:

22. AMOUNT

23. ACCOUNTING AND APPROPRIATION DATA

24. SUBMIT INVOICES TO ADDRESS SHOWN IN

ITEM

25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO

10 U.S.C. 2304(c)(

 )

41 U.S.C. 3304(a) (

 )

26. ADMINISTERED BY

27. PAYMENT WILL BE MADE BY

PHONE:

FAX:

28. NEGOTIATED AGREEMENT

29. AWARD

Your

Contractor agrees

offer on this solicitation is hereby accepted as to the items listed. This

to furnish and deliver all items or perform all work requirements identified

award consummates the contract, which consists of (a) the Government

on this form and any continuation sheets for the consideration stated in

solicitation and your offer, and (b) this contract award. No further cont-

this contract. The rights and obligations of the parties to this contract

ractual document is necessary.

shall be governed by (a) this contract award, (b) the solicitation, and (c)

the clauses, representations, certifications, and specifications incorporated

by reference in or attached to this contract.

30a. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED

31a. NAME OF CONTRACTING OFFICER

TO SIGN

30b. SIGNATURE

30c. DATE

31b. UNITED STATES OF AMERICA

31c. AWARD DATE

BY

**OFFER**

**AWARD**

**STANDARD FORM 1442 (REV. 8/2014) BACK**

(Include ZIP Code)

(Include area code)

(Include only if different than Item 14.)

(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.)

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

(Type or print)

(4 copies unless otherwise specified)

(Type or print)

(Type or print)

(Contractor is required to sign this

document and return \_\_\_\_\_\_\_ copies to issuing office.)

(Contractor is not required to sign this document.)

**(Must be fully completed by offeror)**

**(To be completed by Government)**

**CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE**

438-3690162-3903-854200-3220 23NR9WA03

Obligation Number:

36C263

Department of Veterans Affairs

Network 23 Contracting Office (NCO 23)

111 South 18th Plaza, Suite C38

Omaha NE 68102-2077

Department of Veterans Affairs

FMS-VA-2(101)

Financial Services Center

PO Box 149971

Austin TX 78714-9971

Gregg Sutcliffe

VA-VHA-SAOC-2018-9A82CC29

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# SPECIAL INSTRUCTIONS

**CENTRAL CONTRACTOR REGISTRATION IS REQUIRED TO BE ACCOMPLISHED BY THE CONTRACTOR BEFORE CONTRACT AWARD.**

CAUTION - LATE Submissions, Modifications, and Withdrawals: All offers are subject to all terms and conditions of this solicitation.

1. Contract Administration: All contract administration matters will be handled by the following individuals:

 a. CONTRACTOR:

 Phone:

 FAX:

 Email:

 DUNS Number:

 Cage Code:

 b. GOVERNMENT: **Contracting Officer**

 **VA Nebraska Western Iowa Health Care System**

 **111 South 18th Plaza, Suite C38**

 **Omaha NE 68102**

 **Phone (402) 599-2161**

 **Fax (612) 725-1274**

2. CONTRACTOR REMITTANCE ADDRESS:

3. GOVERNMENT INVOICE ADDRESS: See VAAR Clause 852.232-72, Electronic Submission of Payment Requests (NOV 2012).

4. INSPECTION: The right is reserved to thoroughly inspect and investigate the establishment, facilities, business reputation and other qualifications of any bidder and to reject any bid, irrespective of price, that shall be administratively determined lacking in any of the essentials necessary to assure acceptable standards of performance.

**5. SAFETY OR ENVIRONMENTAL VIOLATIONS AND EXPERIENCE MODIFICATION RATE**

All Bidders/Offerors shall submit the following information pertaining to their past Safety and Environmental record.  The information shall contain, at a minimum, a certification that the bidder/offeror has no more than three (3) serious, or one (1) repeat or one (1) willful OSHA or any EPA violation(s) in the past three years.

All Bidders/Offerors shall submit information regarding their current Experience Modification Rate (EMR) equal to or less than 1.0.  This information shall be obtained from the bidder’s/offeror’s insurance company and be furnished on the insurance carrier’s letterhead.

Self-insured contractors or other contractors that cannot provide their EMR rating on insurance letterhead must obtain a rating from the National Council on Compensation Insurance, Inc. (NCCI) by completing/submitting form ERM-6 and providing the rating on letterhead from NCCI.  Note: Self-insured contractors or other contractors that cannot provide EMR rating on insurance letterhead from the states or territories of CA, DE, MI, NJ, ND, OH, PA, WA, WY, and PR shall obtain their EMR rating from their state-run worker’s compensation insurance rating bureau.

A *Determination of Responsibility* will be accomplished for the apparent awardee prior to processing the award.  The above information, along with other information obtained from Government systems, such as the OSHA and EPA online inspection history databases will be used to make the *Determination of Responsibility*.   Failure to affirm being within the guidelines above or submit this information may result in a determination of “Non-Responsibility” for the bidder/offeror.  NOTE: Any information received by the Government that would cause for a negative *Determination of Responsibility* will make the bidder/offeror ineligible for award.

This requirement is applicable to all subcontracting tiers, and prospective prime contractors are responsible for determining the responsibility of their prospective subcontractors.

**6. POST AWARD SAFETY REQUIREMENTS**

 After contract award, the Contractor shall take such safety precautions as the Contracting Officer, or his/her designee may determine to be reasonably necessary to protect the lives and health of the occupants of the buildings. The Contracting Officer or his/her designee will notify the Contractor of any noncompliance with the forgoing provisions and the action to be taken. The Contractor shall after receipt of such notice immediately correct the conditions to which attention has been directed. Such notice, when served on the Contractor or his/her representative at the site of the work, shall be deemed sufficient for the purposes aforesaid. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or any part of the work and hold the Contractor in default.

**7. CONFORMITY TO REGULATIONS**

 The Contractor and his/her operators shall conform to all regulations, Federal, State, and local, governing the performance of contracted services.

**8. GENDER**

 Whenever the masculine gender is used in the solicitation and contract documents, it shall be considered to include both masculine and feminine gender.

**9. SITE VISIT**

 There will be an organized site visit for this project. Offerors are strongly encouraged to visit the VA installation to fully appraise themselves with the physical layout and the character and conditions under which the service is to be performed. Failure to do so will in no way relieve the successful offeror from the necessity of furnishing the services as specified in this proposal without additional cost to the Government. **Please see FAR Clause 52.236-27 for date / time / location of the organized site visit.**

# INSTRUCTIONS, CONDITIONS AND OTHER STATEMENTS TO BIDDERS/OFFERORS

## 2.1 FAR 52.216-1, TYPE OF CONTRACT (APR 1984)

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

(End of Provision)

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

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

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

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

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

(End of Provision)

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

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

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

|  |  |
| --- | --- |
| **Goals for minority participation for each trade** | **Goals for female participation for each trade** |
| 1.2 % | 6.9 % |

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

 (c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

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

 (1) Name, address, and telephone number of the subcontractor;

 (2) Employer's identification number of the subcontractor;

 (3) Estimated dollar amount of the subcontract;

 (4) Estimated starting and completion dates of the subcontract; and

 (5) Geographical area in which the subcontract is to be performed.

 (e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is

Sioux Falls, Minnehaha, SD

(End of Provision)

## 2.4 FAR 52.225-10, 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 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)

## 2.5 FAR 52.228-1, BID GUARANTEE (SEP 1996)

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

 (b) The bidder shall furnish a bid guarantee in the form of a firm commitment, e.g., bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds—

 (1) To unsuccessful bidders as soon as practicable after the opening of bids; and

 (2) To the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

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

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

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

(End of Provision)

## 2.6 FAR 52.233-2, SERVICE OF PROTEST (SEP 2006)

 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:

 Gregg Sutcliffe

 Hand-Carried Address:

 Department of Veterans Affairs

 NCO 23 Contracting Office

 111 S 18th Plaza, Suite C38

 Omaha NE 68102

 Mailing Address:

 Department of Veterans Affairs

 Network 23 Contracting Office (NCO 23)

 111 S 18th Plaza, Suite C38

 Omaha NE 68102

 (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)

## 2.7 FAR 52.236-27, SITE VISIT (CONSTRUCTION) (FEB 1995) ALTERNATE I (FEB 1995)

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

 (b) An organized site visit has been scheduled for—

 **Tuesday, May 21, 2019 @ 11:30AM (local time)**

 (c) Participants will meet at—

 **Sioux Falls VA Medical Center / 2501 W. 22nd Street - Bldg 5/ Sioux Falls, SD**

(End of Provision)

## 2.8 FAR 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):

 http://www.acquisition.gov/far/index.html

 http://www.va.gov/oal/library/vaar/

(End of Provision)

|  |  |  |
| --- | --- | --- |
| **FAR Number** | **Title** | **Date** |
| 52.204-7 | SYSTEM FOR AWARD MANAGEMENT | OCT 2018 |
| 52.204-16 | COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING | JUL 2016 |
| 52.204-22 | ALTERNATIVE LINE ITEM PROPOSAL | JAN 2017 |
| 52.211-6 | BRAND NAME OR EQUAL | AUG 1999 |
| 52.214-3 | AMENDMENTS TO INVITATIONS FOR BIDS | DEC 2016 |
| 52.214-4 | FALSE STATEMENTS IN BIDS | APR 1984 |
| 52.214-5 | SUBMISSION OF BIDS | DEC 2016 |
| 52.214-6 | EXPLANATION TO PROSPECTIVE BIDDERS | APR 1984 |
| 52.214-7 | LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS | NOV 1999 |
| 52.214-18 | PREPARATION OF BIDS—CONSTRUCTION | APR 1984 |
| 52.214-19 | CONTRACT AWARD—SEALED BIDDING—CONSTRUCTION | AUG 1996 |
| 52.214-34 | SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE | APR 1991 |
| 52.214-35 | SUBMISSION OF OFFERS IN U.S. CURRENCY | APR 1991 |
| 52.215-1 | INSTRUCTIONS TO OFFERORS—COMPETITIVE ACQUISITION ALTERNATE I (OCT 1997) | JAN 2017 |

## 2.10 VAAR 852.233-70, PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (OCT 2018)

 (a) Any protest filed by an interested party shall—

 (1) Include the name, address, fax number, email and telephone number of the protester;

 (2) Identify the solicitation and/or contract number;

 (3) Include an original signed by the protester or the protester’s representative and at least one copy;

 (4) Set forth a detailed statement of the legal and factual grounds of the protest, including a description of resulting prejudice to the protester, and provide copies of relevant documents;

 (5) Specifically request a ruling of the individual upon whom the protest is served;

 (6) State the form of relief requested; and

 (7) Provide all information establishing the timeliness of the protest.

 (b) Failure to comply with the above may result in dismissal of the protest without further consideration.

 (c) Bidders/offerors and Contracting Officers are encouraged to use alternative dispute resolution (ADR) procedures to resolve protests at any stage in the protest process. If ADR is used, the Department of Veterans Affairs will not furnish any documentation in an ADR proceeding beyond what is allowed by the Federal Acquisition Regulation.

(End of Provision)

 PLEASE NOTE: The correct mailing information for filing alternate protests is as follows:

 Deputy Assistant Secretary for Acquisition and Logistics,

 Risk Management Team, Department of Veterans Affairs

 810 Vermont Avenue, N.W.

 Washington, DC 20420

 Or for solicitations issued by the Office of Construction and Facilities Management:

 Director, Office of Construction and Facilities Management

 811 Vermont Avenue, N.W.

 Washington, DC 20420

## 2.11 VAAR 852.252-70, SOLICITATION PROVISIONS OR CLAUSES INCORPORATED BY REFERENCE (JAN 2008)

 The following provisions or clauses incorporated by reference in this solicitation must be completed by the offeror or prospective contractor and submitted with the quotation or offer. Copies of these provisions or clauses are available on the Internet at the Web sites provided in the provision at FAR 52.252-1, Solicitation Provisions Incorporated by Reference, or the clause at FAR 52.252-2, Clauses Incorporated by Reference. Copies may also be obtained from the contracting officer.

[Contracting officer shall list all FAR and 48 CFR Chapter 8 (VAAR) provisions and clauses incorporated by reference that must be completed by the offeror or prospective contractor and submitted with the quotation or offer.]

(End of Provision)

## 2.12 VAAR 852.270-1, REPRESENTATIVES OF CONTRACTING OFFICERS (JAN 2008)

 The contracting officer reserves the right to designate representatives to act for him/her in furnishing technical guidance and advice or generally monitor the work to be performed under this contract. Such designation will be in writing and will define the scope and limitation of the designee's authority. A copy of the designation shall be furnished to the contractor.

(End of Provision)

# REPRESENTATIONS AND CERTIFICATIONS

## 3.1 FAR 52.204-8, ANNUAL REPRESENTATIONS AND CERTIFICATIONS (OCT 2018)

 (a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 236220.

 (2) The small business size standard is $36.5 Million.

 (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) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation.

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

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

 (ix) 52.214-14, Place of Performance—Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

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

 (xi) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.

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

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

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

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

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

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

 (xvi) 52.223-1, 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.

 (xvii) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA-designated items.

 (xviii) 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.)

 (xix) 52.225-2, Buy American Certificate. This provision applies to solicitations containing the clause at 52.225-1.

 (xx) 52.225-4, Buy American—Free Trade Agreements—Israeli Trade Act Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at 52.225-3.

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

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

 (C) If the acquisition value is $50,000 or more but is less than $80,317, the provision with its Alternate II applies.

 (D) If the acquisition value is $80,317 or more but is less than $100,000, the provision with its Alternate III applies.

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

 (xxii) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification. This provision applies to all solicitations.

 (xxiii) 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.

 (xxiv) 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.

 (A) Solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions; and

 (B) For DoD, NASA, and Coast Guard acquisitions, solicitations that contain the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

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

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

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

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

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

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

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

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

 [](A) Basic.

 [](B) Alternate I.

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

 (d) The Offeror has completed the annual representations and certifications electronically in SAM accessed through [*https://www.sam.gov*](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)

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

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

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

 "Federal contracts and grants with total value greater than $10,000,000" means—

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

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

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

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

 (c) If the offeror checked "has" in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (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*](https://www.sam.gov) (see 52.204-7).

(End of Provision)

## 3.3 FAR 52.209-13, VIOLATION OF ARMS CONTROLS TREATIES OR AGREEMENTS—CERTIFICATION (JUN 2018)

 (a) This provision does not apply to acquisitions below the simplified acquisition threshold or to acquisitions of commercial items as defined at FAR 2.101.

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

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

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

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

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

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

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

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

 (i) An inability to certify compliance.

 (ii) An inability to conclude compliance.

 (iii) A statement about compliance concerns.

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

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

 (d) Do not submit an offer unless—

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

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

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

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

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

(End of Provision)

# GENERAL CONDITIONS

## 4.1 FAR 52.204-21, BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of Clause)

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

 The Contractor shall be required to (a) commence work under this contract within 10 calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than 390 days after receipt of notice to proceed. The time stated for completion shall include final cleanup of the premises.

(End of Clause)

## 4.3 FAR 52.213-4, TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS) (JAN 2019)

 (a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses that are incorporated by reference:

 (1) The clauses listed below implement provisions of law or Executive order:

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

 (ii) 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).

 (iii) 52.222-3, Convict Labor (JUN 2003) (E.O. 11755).

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

 (v) 52.222–26, Equal Opportunity (SEP 2016) (E.O. 11246).

 (vi) 52.225-13, Restrictions on Certain Foreign Purchases (JUN 2008) (E.O.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

 (vii) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

 (viii) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78 (19 U.S.C. 3805 note).

 (2) Listed below are additional clauses that apply:

 (i) 52.232-1, Payments (APR 1984).

 (ii) 52.232-8, Discounts for Prompt Payment (FEB 2002).

 (iii) 52.232-11, Extras (APR 1984).

 (iv) 52.232-25, Prompt Payment (JAN 2017)

 (v) 52.232-39, Unenforceability of Unauthorized Obligations (JUN 2013).

 (vi) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (DEC 2013).

 (vii) 52.233-1, Disputes (MAY 2014).

 (viii) 52.244-6, Subcontracts for Commercial Items (JAN 2019).

 (ix) 52.253-1, Computer Generated Forms (JAN 1991).

 (b) The Contractor shall comply with the following FAR clauses, incorporated by reference, unless the circumstances do not apply:

 (1) The clauses listed below implement provisions of law or Executive order:

 (i) 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2018) (Pub. L. 109–282) (31 U.S.C. 6101 note) (Applies to contracts valued at $30,000 or more).

 (ii) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (JAN 2018) (E.O. 13126) (Applies to contracts for supplies exceeding the micro-purchase threshold).

 (iii) 52.222-20, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000 (MAY 2014) (41 U.S.C. chapter 65) (Applies to supply contracts over $15,000 in the United States, Puerto Rico, or the U.S. Virgin Islands).

 (iv) 52.222-35, Equal Opportunity for Veterans (OCT 2015) (38 U.S.C. 4212) (applies to contracts of $150,000 or more).

 (v) 52.222-36, Equal Employment for Workers with Disabilities (JUL 2014) (29 U.S.C. 793) (Applies to contracts over $15,000, unless the work is to be performed outside the United States by employees recruited outside the United States). (For purposes of this clause, ``United States'' includes the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)

 (vi) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212) (Applies to contracts of $150,000 or more).

 (vii) 52.222-41, Service Contract Labor Standards (AUG 2018) (41 U.S.C. chapter 67) (Applies to service contracts over $2,500 that are subject to the Service Contract Labor Standards statute and will be performed in the United States, District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, or the outer Continental Shelf).

 (viii)(A) 52.222-50, Combating Trafficking in Persons (JAN 2019) (22 U.S.C. chapter 78 and E.O 13627) (Applies to all solicitations and contracts).

 (B) Alternate I (MAR 2015) (Applies if the Contracting Officer has filled in the following information with regard to applicable directives or notices: Document title(s), source for obtaining document(s), and contract performance location outside the United States to which the document applies).

 (ix) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2015) (Applies when 52.222-6 or 52.222-41 are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia)).

 (x) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706) (Applies when 52.222-6 or 52.222-41 are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia.))

 (xi) 52.223-5, Pollution Prevention and Right-to-Know Information (MAY 2011) (E.O. 13423) (Applies to services performed on Federal facilities).

 (xii) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693)(applies to contracts for products as prescribed at FAR 23.804(a)(1)).

 (xiii) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693) (Applies to maintenance, service, repair, or disposal of refrigeration equipment and air conditioners).

 (xiv) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b) (Unless exempt pursuant to 23.204, applies to contracts when energy-consuming products listed in the ENERGY STAR® Program or Federal Energy Management Program (FEMP) will be—

 (A) Delivered;

 (B) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

 (C) Furnished by the Contractor for use by the Government; or

 (D) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance).

 (xv) 52.223-20, Aerosols (JUN 2016) (E.O. 13693) (Applies to contracts for products that may contain high global warming potential hydrofluorocarbons as a propellant or as a solvent; or contracts for maintenance or repair of electronic or mechanical devices).

 (xvi) 52.223-21, Foams (JUN 2016) (E.O. 13693) (Applies to contracts for products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent; or contracts for construction of buildings or facilities.

 (xvii) 52.225-1, Buy American--Supplies (MAY 2014) (41 U.S.C. chapter 67) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use in the United States or its outlying areas, if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold and the acquisition—

 (A) Is set aside for small business concerns; or

 (B) Cannot be set aside for small business concerns (see 19.502-2), and does not exceed $25,000).

 (xviii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) (42 U.S.C. 1792) (Applies to contracts greater than $25,000 that provide for the provision, the service, or the sale of food in the United States).

 (xix) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (Oct 2018) (Applies when the payment will be made by electronic funds transfer (EFT) and the payment office uses the System for Award Management (SAM) as its source of EFT information).

 (xx) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (JUL 2013) (Applies when the payment will be made by EFT and the payment office does not use the SAM database as its source of EFT information.)

 (xxi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. App. 1241) (Applies to supplies transported by ocean vessels (except for the types of subcontracts listed at 47.504(d).)

 (2) Listed below are additional clauses that may apply:

 (i) 52.204-21, Basic Safeguarding of Covered Contractor Information Systems (JUN 2016) (Applies to contracts when the contractor or a subcontractor at any tier may have Federal contract information residing in or transiting through its information system.

 (ii) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (OCT 2015) (Applies to contracts over $35,000).

 (iii) 52.211-17, Delivery of Excess Quantities (SEP 1989) (Applies to fixed-price supplies).

 (iv) 52.247-29, F.o.b. Origin (FEB 2006) (Applies to supplies if delivery is f.o.b. origin).

 (v) 52.247-34, F.o.b. Destination (NOV 1991) (Applies to supplies if delivery is f.o.b. destination).

 (c) *FAR 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):

http://www.acquisition.gov/far/index.html

http://www.va.gov/oal/library/vaar/

 (d) Inspection/Acceptance. The Contractor shall tender for acceptance only those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its postacceptance rights—

 (1) Within a reasonable period of time after the defect was discovered or should have been discovered; and

 (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

 (e) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

 (f) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges that the Contractor can demonstrate to the satisfaction of the Government, using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

 (g) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

 (h) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(End of Clause)

## 4.4 FAR 52.219-28, POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)

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

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

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

 (b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

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

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

 (3) For long-term contracts—

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

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

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

 (d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

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

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

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

 The Contractor represents that it [ ] is, [ ] is not a small business concern under NAICS Code 236220 assigned to contract number .

[Co*ntractor to sign and date and insert authorized signer's name and title*].

(End of Clause)

## 4.5 FAR 52.222-35, EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)

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

 “Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran” have the meanings given at FAR 22.1301.

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

 (c) *Subcontracts*. The Contractor shall insert the terms of this clause in subcontracts of $150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

(End of Clause)

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

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

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

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

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

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

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

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

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

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

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

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

 (f) Subcontracts.

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

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

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

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

(End of Clause)

## 4.7 FAR 52.225-9, BUY AMERICAN—CONSTRUCTION MATERIALS (MAY 2014)

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

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

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

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

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

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

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

 "Component" means any article, material, or supply incorporated directly into construction material.

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

 "Cost of components" means—

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

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

 "Domestic construction material" means—

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

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

 (i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

 (ii) The construction material is a COTS item.

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

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

 (b) Domestic preference.

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

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

 N/A

 (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 6 percent;

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

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

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

 (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including—

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

 (B) Unit of measure;

 (C) Quantity;

 (D) Price;

 (E) Time of delivery or availability;

 (F) Location of the construction project;

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

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

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

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

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

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

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

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

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

|  |  |  |  |
| --- | --- | --- | --- |
| **Construction Material Description** | **Unit of Measure** | **Quantity** | **Price (Dollars)\*** |
| Item 1: |
| Foreign Construction Material |  |  |  |
| Domestic Construction Material |  |  |  |
| Item 2: |
| Foreign Construction Material |  |  |  |
| Domestic Construction Material |  |  |  |

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

[Include other applicable supporting information.]

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

(End of Clause)

## 4.8 SUPPLEMENTAL INSURANCE REQUIREMENTS

 In accordance with FAR 28.307-2 and FAR 52.228-5, the following minimum coverage shall apply to this contract:

 (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 is required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.

 (b) General Liability: $500,000.00 per occurrences.

 (c) Automobile liability: $200,000.00 per person; $500,000.00 per occurrence and $20,000.00 property damage.

 (d) The successful bidder must present to the Contracting Officer, prior to award, evidence of general liability insurance without any exclusionary clauses for asbestos that would void the general liability coverage.

(End of Clause)

## 4.9 FAR 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):

 http://www.acquisition.gov/far/index.html

 http://www.va.gov/oal/library/vaar/

(End of Clause)

|  |  |  |  |
| --- | --- | --- | --- |
|  | **FAR Number** | **Title** | **Date** |
|  | 52.202-1 | DEFINITIONS | NOV 2013 |
|  | 52.203-3 | GRATUITIES | APR 1984 |
|  | 52.203-5 | COVENANT AGAINST CONTINGENT FEES | MAY 2014 |
|  | 52.203-6 | RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT | SEP 2006 |
|  | 52.203-7 | ANTI-KICKBACK PROCEDURES | MAY 2014 |
|  | 52.203-8 | CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY | MAY 2014 |
|  | 52.203-10 | PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY | MAY 2014 |
|  | 52.203-12 | LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS | OCT 2010 |
|  | 52.203-17 | CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS | APR 2014 |
|  | 52.203-19 | PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS | JAN 2017 |
|  | 52.204-4 | PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER | MAY 2011 |
|  | 52.204-10 | REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS | OCT 2018 |
|  | 52.204-13 | SYSTEM FOR AWARD MANAGEMENT MAINTENANCE | OCT 2018 |
|  | 52.204-14 | SERVICE CONTRACT REPORTING REQUIREMENTS | OCT 2016 |
|  | 52.204-18 | COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE | JUL 2016 |
|  | 52.204-19 | INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS | DEC 2014 |
|  | 52.204-23 | PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES | JUL 2018 |
|  | 52.209-6 | PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT | OCT 2015 |
|  | 52.209-9 | UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS | OCT 2018 |
|  | 52.209-10 | PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS | NOV 2015 |
|  | 52.214-26 | AUDIT AND RECORDS—SEALED BIDDING | OCT 2010 |
|  | 52.214-27 | PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA—MODIFICATIONS—SEALED BIDDING | AUG 2011 |
|  | 52.214-28 | SUBCONTRACTOR CERTIFIED COST OR PRICING DATA—MODIFICATIONS—SEALED BIDDING | OCT 2010 |
|  | 52.219-8 | UTILIZATION OF SMALL BUSINESS CONCERNS | OCT 2018 |
|  | 52.222-3 | CONVICT LABOR | JUN 2003 |
|  | 52.222-4 | CONTRACT WORK HOURS AND SAFETY STANDARDS—OVERTIME COMPENSATION | MAY 2018 |
|  | 52.222-6 | CONSTRUCTION WAGE RATE REQUIREMENTS | AUG 2018 |
|  | 52.222-7 | WITHHOLDING OF FUNDS | MAY 2014 |
|  | 52.222-8 | PAYROLLS AND BASIC RECORDS | AUG 2018 |
|  | 52.222-9 | APPRENTICES AND TRAINEES | JUL 2005 |
|  | 52.222-10 | COMPLIANCE WITH COPELAND ACT REQUIREMENTS | FEB 1988 |
|  | 52.222-11 | SUBCONTRACTS (LABOR STANDARDS) | MAY 2014 |
|  | 52.222-12 | CONTRACT TERMINATION—DEBARMENT | MAY 2014 |
|  | 52.222-13 | COMPLIANCE WITH CONSTRUCTION WAGE RATE REQUIREMENTS AND RELATED REGULATIONS | MAY 2014 |
|  | 52.222-14 | DISPUTES CONCERNING LABOR STANDARDS | FEB 1988 |
|  | 52.222-15 | CERTIFICATION OF ELIGIBILITY | MAY 2014 |
|  | 52.222-21 | PROHIBITION OF SEGREGATED FACILITIES | APR 2015 |
|  | 52.222-26 | EQUAL OPPORTUNITY | SEP 2016 |
|  | 52.222-27 | AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION | APR 2015 |
|  | 52.222-36 | EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES | JUL 2014 |
|  | 52.222-37 | EMPLOYMENT REPORTS ON VETERANS | FEB 2016 |
|  | 52.222-50 | COMBATING TRAFFICKING IN PERSONS | JAN 2019 |
|  | 52.222-54 | EMPLOYMENT ELIGIBILITY VERIFICATION | OCT 2015 |
|  | 52.222-55 | MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 | DEC 2015 |
|  | 52.222-62 | PAID SICK LEAVE UNDER EXECUTIVE ORDER 13706 | JAN 2017 |
|  | 52.223-3 | HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA ALTERNATE I (JUL 1995) | JAN 1997 |
|  | 52.223-5 | POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION ALTERNATE I (MAY 2011) | MAY 2011 |
|  | 52.223-6 | DRUG-FREE WORKPLACE | MAY 2001 |
|  | 52.223-15 | ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS | DEC 2007 |
|  | 52.223-17 | AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS | AUG 2018 |
|  | 52.223-18 | ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING | AUG 2011 |
|  | 52.223-21 | FOAMS | JUN 2016 |
|  | 52.225-13 | RESTRICTIONS ON CERTAIN FOREIGN PURCHASES | JUN 2008 |
|  | 52.227-1 | AUTHORIZATION AND CONSENT | DEC 2007 |
|  | 52.227-2 | NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT | DEC 2007 |
|  | 52.227-4 | PATENT INDEMNITY—CONSTRUCTION CONTRACTS | DEC 2007 |
|  | 52.228-2 | ADDITIONAL BOND SECURITY | OCT 1997 |
|  | 52.228-5 | INSURANCE—WORK ON A GOVERNMENT INSTALLATION | JAN 1997 |
|  | 52.228-11 | PLEDGES OF ASSETS | AUG 2018 |
|  | 52.228-12 | PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS | MAY 2014 |
|  | 52.228-14 | IRREVOCABLE LETTER OF CREDIT | NOV 2014 |
|  | 52.228-15 | PERFORMANCE AND PAYMENT BONDS—CONSTRUCTION | OCT 2010 |
|  | 52.229-3 | FEDERAL, STATE, AND LOCAL TAXES | FEB 2013 |
|  | 52.232-5 | PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS | MAY 2014 |
|  | 52.232-17 | INTEREST | MAY 2014 |
|  | 52.232-23 | ASSIGNMENT OF CLAIMS ALTERNATE I (APR 1984) | 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 PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS | DEC 2013 |
|  | 52.233-1 | DISPUTES ALTERNATE I (DEC 1991) | MAY 2014 |
|  | 52.233-3 | PROTEST AFTER AWARD | AUG 1996 |
|  | 52.233-4 | APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM | OCT 2004 |
|  | 52.236-2 | DIFFERING SITE CONDITIONS | APR 1984 |
|  | 52.236-3 | SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK | APR 1984 |
|  | 52.236-5 | MATERIAL AND WORKMANSHIP | APR 1984 |
|  | 52.236-6 | SUPERINTENDENCE BY THE CONTRACTOR | APR 1984 |
|  | 52.236-7 | 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 ALTERNATE I (APR 1984) | NOV 1991 |
|  | 52.236-14 | AVAILABILITY AND USE OF UTILITY SERVICES | APR 1984 |
|  | 52.236-15 | SCHEDULES FOR CONSTRUCTION CONTRACTS | APR 1984 |
|  | 52.236-17 | LAYOUT OF WORK | APR 1984 |
|  | 52.236-21 | SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION ALTERNATE I (APR 1984) | FEB 1997 |
|  | 52.236-26 | PRECONSTRUCTION CONFERENCE | FEB 1995 |
|  | 52.242-5 | PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS | JAN 2017 |
|  | 52.242-13 | BANKRUPTCY | JUL 1995 |
|  | 52.242-14 | SUSPENSION OF WORK | APR 1984 |
|  | 52.243-4 | CHANGES | JUN 2007 |
|  | 52.244-6 | SUBCONTRACTS FOR COMMERCIAL ITEMS | JAN 2019 |
|  | 52.246-12 | INSPECTION OF CONSTRUCTION | AUG 1996 |
|  | 52.246-21 | WARRANTY OF CONSTRUCTION ALTERNATE I (APR 1984) | MAR 1994 |
|  | 52.248-3 | VALUE ENGINEERING—CONSTRUCTION | OCT 2015 |
|  | 52.249-2 | TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) ALTERNATE I (SEPT 1996) | APR 2012 |
|  | 52.249-10 | DEFAULT (FIXED-PRICE CONSTRUCTION) | APR 1984 |
|  | 52.253-1 | COMPUTER GENERATED FORMS | JAN 1991 |

## 4.10 VAAR 852.203-70, COMMERCIAL ADVERTISING (MAY 2018)

 The Contractor shall not make reference in its commercial advertising to Department of Veterans Affairs contracts in a manner that states or implies the Department of Veterans Affairs approves or endorses the Contractor’s products or services or considers the Contractor’s products or services superior to other products or services.

(End of Clause)

## 4.11 VAAR 852.219-10, VA NOTICE OF TOTAL SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (JUL 2016)(DEVIATION)

 (a) *Definition.* For the Department of Veterans Affairs, “Service-disabled veteran-owned small business concern or SDVSOB”:

 (1) Means a small business concern:

 (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans or eligible surviving spouses (see VAAR 802.201 Surviving Spouse definition);

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

 (iii) The business meets Federal small business size standards for the applicable North American Industry Classification System (NAICS) code identified in the solicitation document;

 (iv) The business has been verified for ownership and control pursuant to 38 CFR 74 and is so listed in the Vendor Information Pages database, (<https://www.vip.vetbiz.gov>); and

 (v) The business will comply with subcontracting limitations in 13 CFR 125.6, as applicable

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

 (b) *General.*

 (1) Offers are solicited only from verified service-disabled veteran-owned small business concerns. Offers received from concerns that are not verified service-disabled veteran-owned small business concerns shall not be considered.

 (2) Any award resulting from this solicitation shall be made to a verified service-disabled veteran-owned small business concern.

 (c) *Agreement.* A service-disabled veteran-owned small business concern agrees that in the performance of the contract, the concern will comply with the limitation on subcontracting requirements in 13 CFR §125.6.

 (d) A joint venture may be considered a service-disabled veteran owned small business concern if the joint venture complies with the requirements in 13 CFR 125.15, provided that any reference therein to SDVO SBC is to be construed to apply to a VA verified SDVOSB as appropriate.

 (e) Any service-disabled veteran-owned small business concern (non-manufacturer) must meet the requirements in FAR 19.102(f) of the Federal Acquisition Regulation to receive a benefit under this program.

(End of Clause)

## 4.12 VAAR 852.219-74 LIMITATIONS ON SUBCONTRACTING—MONITORING AND COMPLIANCE (JUL 2018)

 (a) This solicitation includes VAAR 852.219-10 VA Notice of Total Service- Disabled Veteran-Owned Small Business Set-Aside.

 (b) Accordingly, any contract resulting from this solicitation is subject to the limitation on subcontracting requirements in 13 CFR 125.6, or the limitations on subcontracting requirements in the FAR clause, as applicable. The Contractor is advised that in performing contract administration functions, the Contracting Officer may use the services of a support contractor(s) retained by VA to assist in assessing the Contractor's compliance with the limitations on subcontracting or percentage of work performance requirements specified in the clause. To that end, the support contractor(s) may require access to Contractor's offices where the Contractor's business records or other proprietary data are retained and to review such business records regarding the Contractor's compliance with this requirement.

 (c) All support contractors conducting this review on behalf of VA will be required to sign an “Information Protection and Non-Disclosure and Disclosure of Conflicts of Interest Agreement” to ensure the Contractor's business records or other proprietary data reviewed or obtained in the course of assisting the Contracting Officer in assessing the Contractor for compliance are protected to ensure information or data is not improperly disclosed or other impropriety occurs.

 (d) Furthermore, if VA determines any services the support contractor(s) will perform in assessing compliance are advisory and assistance services as defined in FAR 2.101, Definitions, the support contractor(s) must also enter into an agreement with the Contractor to protect proprietary information as required by FAR 9.505-4, Obtaining access to proprietary information, paragraph (b). The Contractor is required to cooperate fully and make available any records as may be required to enable the Contracting Officer to assess the Contractor's compliance with the limitations on subcontracting or percentage of work performance requirement.

(End of Clause)

## 4.13 VAAR 852.228-70, BOND PREMIUM ADJUSTMENT (JAN 2008)

 When net changes in original contract price affect the premium of a Corporate Surety Bond by $5 or more, the Government, in determining the basis for final settlement, will provide for bond premium adjustment computed at the rate shown in the bond.

(End of Clause)

## 4.14 VAAR 852.228-72, ASSISTING SERVICE-DISABLED VETERAN-OWNED AND VETERAN-OWNED SMALL BUSINESSES IN OBTAINING BONDS (DEC 2009)

 Prime contractors are encouraged to assist service-disabled veteran-owned and veteran-owned small business potential subcontractors in obtaining bonding, when required. Mentor firms are encouraged to assist protégé firms under VA's Mentor-Protégé Program in obtaining acceptable bid, payment, and performance bonds, when required, as a prime contractor under a solicitation or contract and in obtaining any required bonds under subcontracts.

(End of Clause)

## 4.15 **VAAR** 852.232-71, PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (INCLUDING NAS– CPM) (NOV 2018)

The clause FAR 52.232–5, Payments Under Fixed-Price Construction Contracts, is implemented as follows:

 (a) Retainage.

 (1) The Contracting Officer may retain funds—

 (i) Where performance under the contract has been determined to be deficient or the Contractor has performed in an unsatisfactory manner in the past; or

 (ii) As the contract nears completion, to ensure that deficiencies will be corrected and that completion is timely.

 (2) Examples of deficient performance justifying a retention of funds include, but are not restricted to, the following—

 (i) Unsatisfactory progress as determined by the Contracting Officer;

 (ii) Failure to meet schedule in Schedule of Work Progress;

 (iii) Failure to present submittals in a timely manner; or

 (iv) Failure to comply in good faith with approved subcontracting plans, certifications, or contract requirements.

 (3) Any level of retention shall not exceed 10 percent either where there is determined to be unsatisfactory performance, or when the retainage is to ensure satisfactory completion. Retained amounts shall be paid promptly upon completion of all contract requirements, but nothing contained in this paragraph (a)(3) shall be construed as limiting the Contracting Officer’s right to withhold funds under other provisions of the contract or in accordance with the general law and regulations regarding the administration of Government contracts.

 (b) The Contractor shall submit a schedule of costs in accordance with the requirements of section ‘‘Network Analysis System—Critical Path Method (NAS–CPM)’’ to the Contracting Officer for approval within 90 calendar days after date of receipt of notice to proceed. The approved cost schedule will be one of the bases for determining progress payments to the Contractor for work completed.

 (1) Costs as shown on this schedule must be true costs and the resident engineer may require the Contractor to submit its original estimate sheets or other information to substantiate the detailed makeup of the cost schedule.

 (2) The total costs of all work activities/events shall equal the contract price.

 (3) Insurance and similar items shall be prorated and included in each work activity/event cost of the critical path method (CPM).

 (4) The CPM shall include a separate cost loaded activity for adjusting and testing of the systems listed in the table in paragraph (b)(5) of this clause. The percentages listed in paragraph (b)(5) will be used to determine the cost of adjust and test work activities/events and identify, for payment purposes, the value of the work to adjust, correct and test systems after the material has been installed.

 (5) Payment for adjust and test activities will be made only after the Contractor has demonstrated that each of the systems is substantially complete and operates as required by the contract.

|  |
| --- |
| VALUE OF ADJUSTING, CORRECTING, AND TESTING SYSTEM |
| System | Percent |
| Pneumatic tube system………………………………………………………………………………. | 10 |
| Incinerators (medical waste and trash)……………………………………………………….. | 5 |
| Sewage treatment plant equipment……………………………………………………………. | 5 |
| Water treatment plant equipment……………………………………………………………… | 5 |
| Washers (dish, cage, glass, etc.)………………………………………………………………….. | 5 |
| Sterilizing equipment……………………………………………………………………………….…. | 5 |
| Water distilling equipment…………………………………………………………………………. | 5 |
| Prefab temperature rooms (cold, constant temperature)………………………….. | 5 |
| Entire air-conditioning system (Specified under 600 Sections)…………………… | 5 |
| Entire boiler plant system (Specified under 700 Sections)………………………….. | 5 |
| General supply conveyors…………………………………………………………………………… | 10 |
| Food service conveyors………………………………………………………………………….…… | 10 |
| Pneumatic soiled linen and trash system…………………………………………………… | 10 |
| Elevators and dumbwaiters………………………………………………………………………… | 10 |
| Materials transport system…………………………………………………………………………. | 10 |
| Engine-generator system……………………………………………………………………………. | 5 |
| Primary switchgear……………………………………………………………………………………… | 5 |
| Secondary switchgear………………………………………………………………………………….. | 5 |
| Fire alarm system………………………………………………………………………………………… | 5 |
| Nurse call system………………………………………………………………………………………… | 5 |
| Intercom system………………………………………………………………………………………….. | 5 |
| Radio system…………………………………………………………………………………………… | 5 |
| TV (entertainment) system………………………………………………………………………… | 5 |

 (c) In addition to this cost schedule, the Contractor shall submit such unit costs as may be specifically requested. The unit costs shall be those used by the Contractor in preparing its bid and will not be binding as pertaining to any contract changes.

 (d) The Contracting Officer will consider for monthly progress payments material and/or equipment procured by the Contractor and stored on the construction site, as space is available, or at a local approved location off the site, under such terms and conditions as the Contracting Officer approves, including but not limited to the following—

 (1) The materials or equipment are in accordance with the contract requirements and/or approved samples and shop drawings;

 (2) The materials and/or equipment are approved by the resident engineer;

 (3) The materials and/or equipment are stored separately and are readily available for inspection and inventory by the resident engineer;

 (4) The materials and/or equipment are protected against weather, theft and other hazards and are not subjected to deterioration; and

 (5) The Contractor obtains the concurrence of its surety for off-site storage.

 (e) The Government reserves the right to withhold payment until samples, shop drawings, engineer’s certificates, additional bonds, payrolls, weekly statements of compliance, proof of title, nondiscrimination compliance reports, or any other requirements of this contract, have been submitted to the satisfaction of the Contracting Officer.

 (f) The Contracting Officer will notify the Contractor in writing within 10 calendar-days of exercising retainage against any payment in accordance with FAR clause 52.232–5(e). The notice shall disclose the amount of the retainage in value and percent retained from the payment, and provide explanation for the retainage.

(End of Clause)

## 4.16 VAAR 852.232-72, ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2018)

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

 (1) *Contract financing payment* has the meaning given in FAR 32.001;

 (2) *Designated agency* office means the office designated by the purchase order, agreement, or contract to first receive and review invoices. This office can be contractually designated as the receiving entity. This office may be different from the office issuing the payment;

 (3) *Electronic form* means an automated system transmitting information electronically according to the accepted electronic data transmission methods and formats identified in paragraph (c) of this clause. Facsimile, email, and scanned documents are not acceptable electronic forms for submission of payment requests;

 (4) *Invoice payment* has the meaning given in FAR 32.001; and

 (5) *Payment request* means any request for contract financing payment or invoice payment submitted by the contractor under this contract.

 (b) *Electronic payment requests.* Except as provided in paragraph (e) of this clause, the contractor shall submit payment requests in electronic form. Purchases paid with a Government-wide commercial purchase card are considered to be an electronic transaction for purposes of this rule, and therefore no additional electronic invoice submission is required.

 (c) *Data transmission.* A contractor must ensure that the data transmission method and format are through one of the following:

 (1) VA’s Electronic Invoice Presentment and Payment System at the current website address provided in the contract.

 (2) Any system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) and chartered by the American National Standards Institute (ANSI).

 (d) *Invoice requirements.* Invoices shall comply with FAR 32.905.

 (e) *Exceptions*. If, based on one of the circumstances in this paragraph (e), the Contracting Officer directs that payment requests be made by mail, the Contractor shall submit payment requests by mail through the United States Postal Service to the designated agency office. Submission of payment requests by mail may be required for—

 (1) Awards made to foreign vendors for work performed outside the United States;

 (2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified or privacy information;

 (3) Contracts awarded by contracting officers in the conduct of emergency operations, such as responses to national emergencies;

 (4) Solicitations or contracts in which the designated agency office is a VA entity other than the VA Financial Services Center in Austin, Texas; or

 (5) Solicitations or contracts in which the VA designated agency office does not have electronic invoicing capability as described above.

(End of Clause)

## 4.17 VAAR 852.236-71, SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (JUL 2002)

 The clause entitled "Specifications and Drawings for Construction" in FAR 52.236-21 is supplemented as follows:

 (a) The contracting officer's interpretation of the drawings and specifications will be final, subject to the disputes clause.

 (b) Large scale drawings supersede small scale drawings.

 (c) Dimensions govern in all cases. Scaling of drawings may be done only for general location and general size of items.

 (d) Dimensions shown of existing work and all dimensions required for work that is to connect with existing work shall be verified by the contractor by actual measurement of the existing work. Any work at variance with that specified or shown in the drawings shall not be performed by the contractor until approved in writing by the contracting officer.

(End of Clause)

## 4.18 VAAR 852.236-74, INSPECTION OF CONSTRUCTION (JUL 2002)

 The clause entitled "Inspection of Construction" in FAR 52.246-12 is supplemented as follows:

 (a) Inspection of materials and articles furnished under this contract will be made at the site by the resident engineer, unless otherwise provided for in the specifications.

 (b) Final inspection will not be made until the contract work is ready for beneficial use or occupancy. The contractor shall notify the contracting officer, through the resident engineer, fifteen (15) days prior to the date on which the work will be ready for final inspection.

(End of Clause)

## 4.19 VAAR 852.236-76, CORRESPONDENCE (APR 1984)

 All correspondence relative to this contract shall bear Specification Number, Project Number, Department of Veterans Affairs Contract Number, title of project and name of facility.

(End of Clause)

## 4.20 VAAR 852.236-77, REFERENCE TO "STANDARDS" (JUL 2002)

 Any materials, equipment, or workmanship specified by references to number, symbol, or title of any specific Federal, Industry or Government Agency Standard Specification shall comply with all applicable provisions of such standard specifications, except as limited to type, class or grade, or modified in contract specifications. Reference to "Standards" referred to in the contract specifications, except as modified, shall have full force and effect as though printed in detail in specifications.

(End of Clause)

## 4.21 VAAR 852.236-78, GOVERNMENT SUPERVISION (APR 1984)

 (a) The work will be under the direction of the Department of Veterans Affairs contracting officer, who may designate another VA employee to act as resident engineer at the construction site.

 (b) Except as provided below, the resident engineer's directions will not conflict with or change contract requirements.

 (c) Within the limits of any specific authority delegated by the contracting officer, the resident engineer may, by written direction, make changes in the work. The contractor shall be advised of the extent of such authority prior to execution of any work under the contract.

(End of Clause)

## 4.22 VAAR 852.236-79, DAILY REPORT OF WORKERS AND MATERIAL (APR 1984)

 The contractor shall furnish to the resident engineer each day a consolidated report for the preceding work day in which is shown the number of laborers, mechanics, foremen/forewomen and pieces of heavy equipment used or employed by the contractor and subcontractors. The report shall bear the name of the firm, the branch of work which they perform such as concrete, plastering, masonry, plumbing, sheet metal work, etc. The report shall give a breakdown of employees by crafts, location where employed, and work performed. The report shall also list materials delivered to the site on the date covered by the report.

(End of Clause)

## 4.23 VAAR 852.236-80, SUBCONTRACTS AND WORK COORDINATION (APR 1984)

 (a) Nothing contained in this contract shall be construed as creating any contractual relationship between any subcontractor and the Government. Divisions or sections of specifications are not intended to control the contractor in dividing work among subcontractors, or to limit work performed by any trade.

 (b) The contractor shall be responsible to the Government for acts and omissions of his/her own employees, and of the subcontractors and their employees. The contractor shall also be responsible for coordination of the work of the trades, subcontractors, and material suppliers.

 (c) The Government or its representatives will not undertake to settle any differences between the contractor and subcontractors or between subcontractors.

 (d) The Government reserves the right to refuse to permit employment on the work or require dismissal from the work of any subcontractor who, by reason of previous unsatisfactory work on Department of Veterans Affairs projects or for any other reason, is considered by the contracting officer to be incompetent or otherwise objectionable.

(End of Clause)

## 4.24 VAAR 852.236-85, SUPPLEMENTARY LABOR STANDARDS PROVISIONS (APR 1984)

 (a) The wage determination decision of the Secretary of Labor is set forth in section GR, General Requirements, of this contract. It is the result of a study of wage conditions in the locality and establishes the minimum hourly rates of wages and fringe benefits for the described classes of labor in accordance with applicable law. No increase in the contract price will be allowed or authorized because of payment of wage rates in excess of those listed.

 (b) The contractor shall submit the required copies of payrolls to the contracting officer through the resident engineer or engineer officer, when acting in that capacity. Department of Labor Form WH- 347, Payroll, available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, may be used for this purpose. If, however, the contractor or subcontractor elects to use an individually composed payroll form, it shall contain the same information shown on Form WH-347, and in addition be accompanied by Department of Labor Form WH-348, Statement of Compliance, or any other form containing the exact wording of this form.

(End of Clause)

## 4.25 VAAR 852.236-86, WORKER'S COMPENSATION (JAN 2008)

 Public Law 107-217 (40 U.S.C. 3172) authorizes the constituted authority of States to apply their workers compensation laws to all lands and premises owned or held by the United States.

(End of Clause)

## 4.26 VAAR 852.236-87, ACCIDENT PREVENTION (SEP 1993)

 The Resident Engineer on all assigned construction projects, or other Department of Veterans Affairs employee if designated in writing by the Contracting Officer, shall serve as Safety Officer and as such has authority, on behalf of the Contracting Officer, to monitor and enforce Contractor compliance with FAR 52.236-13, Accident Prevention. However, only the Contracting Officer may issue an order to stop all or part of the work while requiring satisfactory or corrective action to be taken by the Contractor.

(End of Clause)

## 4.27 VAAR 852.236-88, CONTRACT CHANGES--SUPPLEMENT (JUL 2002)

 The clauses entitled “Changes” in FAR 52.243-4 and “Differing Site Conditions” in FAR 52.236-2 are supplemented as follows:

 (a) Paragraphs (a)(1) through (a)(4) apply to proposed contract changes costing over $500,000.

 (1) When requested by the contracting officer, the contractor shall submit proposals for changes in work to the resident engineer. Proposals, to be submitted as expeditiously as possible but within 30 calendar days after receipt of request, shall be in legible form, original and two copies, with an itemized breakdown that will include material, quantities, unit prices, labor costs (separated into trades), construction equipment, etc. (Labor costs are to be identified with specific material placed or operation performed.) The contractor must obtain and furnish with a proposal an itemized breakdown as described above, signed by each subcontractor participating in the change regardless of tier. When certified cost or pricing data are required under FAR Subpart 15.403, the cost or pricing data shall be submitted in accordance with FAR 15.403-5.

 (2) When the necessity to proceed with a change does not allow sufficient time to negotiate a modification or because of failure to reach an agreement, the contracting officer may issue a change order instructing the contractor to proceed on the basis of a tentative price based on the best estimate available at the time, with the firm price to be determined later. Furthermore, when the change order is issued, the contractor shall submit a proposal, which includes the information required by paragraph (a)(1), for cost of changes in work within 30 calendar days.

 (3) The contracting officer will consider issuing a settlement by determination to the contract if the contractor's proposal required by paragraphs (a)(1) or (a)(2) of this clause is not received within 30 calendar days or if agreement has not been reached.

 (4) Bond premium adjustment, consequent upon changes ordered, will be made as elsewhere specified at the time of final settlement under the contract and will not be included in the individual change.

 (b) Paragraphs (b)(1) through (b)(11) apply to proposed contract changes costing $500,000 or less:

 (1) When requested by the contracting officer, the contractor shall submit proposals for changes in work to the resident engineer. Proposals, to be submitted as expeditiously as possible but within 30 calendar days after receipt of request, shall be in legible form, original and two copies, with an itemized breakdown that will include material, quantities, unit prices, labor costs (separated into trades), construction equipment, etc. (Labor costs are to be identified with specific material placed or operation performed.) The contractor must obtain and furnish with a proposal an itemized breakdown as described above, signed by each subcontractor participating in the change regardless of tier. When certified cost or pricing data or information other than cost or pricing data are required under FAR 15.403, the data shall be submitted in accordance with FAR 15.403-5. No itemized breakdown will be required for proposals amounting to less than $1,000.

 (2) When the necessity to proceed with a change does not allow sufficient time to negotiate a modification or because of failure to reach an agreement, the contracting officer may issue a change order instructing the contractor to proceed on the basis of a tentative price based on the best estimate available at the time, with the firm price to be determined later. Furthermore, when the change order is issued, the contractor shall submit within 30 calendar days, a proposal that includes the information required by paragraph (b)(1) for the cost of the changes in work.

 (3) The contracting officer will consider issuing a settlement by determination to the contract if the contractor's proposal required by paragraphs (b)(1) or (b)(2) of this clause is not received within 30 calendar days, or if agreement has not been reached.

 (4) Allowances not to exceed 10 percent each for overhead and profit for the party performing the work will be based on the value of labor, material, and use of construction equipment required to accomplish the change. As the value of the change increases, a declining scale will be used in negotiating the percentage of overhead and profit. Allowable percentages on changes will not exceed the following: 10 percent overhead and 10 percent profit on the first $20,000; 7-1/2 percent overhead and 7-1/2 percent profit on the next $30,000; 5 percent overhead and 5 percent profit on balance over $50,000. Profit shall be computed by multiplying the profit percentage by the sum of the direct costs and computed overhead costs.

 (5) The prime contractor's or upper-tier subcontractor's fee on work performed by lower-tier subcontractors will be based on the net increased cost to the prime contractor or upper-tier subcontractor, as applicable. Allowable fee on changes will not exceed the following: 10 percent fee on the first $20,000; 7-1/2 percent fee on the next $30,000; and 5 percent fee on balance over $50,000.

 (6) Not more than four percentages, none of which exceed the percentages shown above, will be allowed regardless of the number of tiers of subcontractors.

 (7) Where the contractor's or subcontractor's portion of a change involves credit items, such items must be deducted prior to adding overhead and profit for the party performing the work. The contractor's fee is limited to the net increase to contractor of subcontractors' portions cost computed in accordance herewith.

 (8) Where a change involves credit items only, a proper measure of the amount of downward adjustment in the contract price is the reasonable cost to the contractor if he/she had performed the deleted work. A reasonable allowance for overhead and profit are properly includable as part of the downward adjustment for a deductive change. The amount of such allowance is subject to negotiation.

 (9) Cost of Federal Old Age Benefit (Social Security) tax and of Worker's Compensation and Public Liability insurance appertaining to changes are allowable. While no percentage will be allowed thereon for overhead or profit, prime contractor's fee will be allowed on such items in subcontractors' proposals.

 (10) Overhead and contractor's fee percentages shall be considered to include insurance other than mentioned herein, field and office supervisors and assistants, security police, use of small tools, incidental job burdens, and general home office expenses and no separate allowance will be made therefore. Assistants to office supervisors include all clerical, stenographic and general office help. Incidental job burdens include, but are not necessarily limited to, office equipment and supplies, temporary toilets, telephone and conformance to OSHA requirements. Items such as, but not necessarily limited to, review and coordination, estimating and expediting relative to contract changes are associated with field and office supervision and are considered to be included in the contractor's overhead and/or fee percentage.

 (11) Bond premium adjustment, consequent upon changes ordered, will be made as elsewhere specified at the time of final settlement under the contract and will not be included in the individual change.

(End of Clause)

## 4.28 VAAR 852.236-89, BUY AMERICAN ACT (JAN 2008)

 (a) Reference is made to the clause entitled "Buy American Act--Construction Materials," FAR 52.225-9.

 (b) Notwithstanding a bidder's right to offer identifiable foreign construction material in its bid pursuant to FAR 52.225-9, VA does not anticipate accepting an offer that includes foreign construction material.

 (c) If a bidder chooses to submit a bid that includes foreign construction material, that bidder must provide a listing of the specific foreign construction material he/she intends to use and a price for said material. Bidders must include bid prices for comparable domestic construction material. If VA determines not to accept foreign construction material and no comparable domestic construction material is provided, the entire bid will be rejected.

 (d) Any foreign construction material proposed after award will be rejected unless the bidder proves to VA's satisfaction: (1) it was impossible to request the exemption prior to award, and (2) said domestic construction material is no longer available, or (3) where the price has escalated so dramatically after the contract has been awarded that it would be unconscionable to require performance at that price. The determinations required by (1), (2), and (3) of this paragraph shall be made in accordance with Subpart 825.2 and FAR 25.2.

 (e) By signing this bid, the bidder declares that all articles, materials and supplies for use on the project shall be domestic unless specifically set forth on the Bid Form or addendum thereto.

(End of Clause)

## 4.29 VAAR 852.236-91, SPECIAL NOTES (JUL 2002)

 (a) Signing of the bid shall be deemed to be a representation by the bidder that:

 (1) Bidder is a construction contractor who owns, operates, or maintains a place of business, regularly engaged in construction, alteration, or repair of buildings, structures, and communications facilities, or other engineering projects, including furnishing and installing of necessary equipment; or

 (2) If newly entering into a construction activity, bidder has made all necessary arrangements for personnel, construction equipment, and required licenses to perform construction work; and

 (3) Upon request, prior to award, bidder will promptly furnish to the Government a statement of facts in detail as to bidder's previous experience (including recent and current contracts), organization (including company officers), technical qualifications, financial resources and facilities available to perform the contemplated work.

 (b) Unless otherwise provided in this contract, where the use of optional materials or construction is permitted, the same standard of workmanship, fabrication and installation shall be required irrespective of which option is selected. The contractor shall make any change or adjustment in connecting work or otherwise necessitated by the use of such optional material or construction, without additional cost to the Government.

 (c) When approval is given for a system component having functional or physical characteristics different from those indicated or specified, it is the responsibility of the contractor to furnish and install related components with characteristics and capacities compatible with the approved substitute component as required for systems to function as noted on drawings and specifications. There shall be no additional cost to the Government.

 (d) In some instances it may have been impracticable to detail all items in specifications or on drawings because of variances in manufacturers' methods of achieving specified results. In such instances the contractor will be required to furnish all labor, materials, drawings, services and connections necessary to produce systems or equipment which are completely installed, functional, and ready for operation by facility personnel in accordance with their intended use.

 (e) Claims by the contractor for delay attributed to unusually severe weather must be supported by climatological data covering the period and the same period for the 10 preceding years. When the weather in question exceeds in intensity or frequency the 10-year average, the excess experienced shall be considered "unusually severe." Comparison shall be on a monthly basis. Whether or not unusually severe weather in fact delays the work will depend upon the effect of weather on the branches of work being performed during the time under consideration.

(End of Clause)

# WAGE DETERMINATION

General Decision Number: **SD190028 01/04/2019 SD28**

Superseded General Decision Number: SD20180034

State: South Dakota

Construction Type: Building

County: Minnehaha County in South Dakota.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a

classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number Publication Date

 0 01/04/2019

 BRSD0001-004 05/01/2017

 Rates Fringes

BRICKLAYER.......................$ 35.83 2.52

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 CARP0587-002 06/01/2016

 Rates Fringes

CARPENTER (Drywall

Finishing/Taping, Drywall

Hanging and Metal Stud

Installation Only)...............$ 28.48 9.91

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 ELEC0426-002 06/01/2018

 Rates Fringes

ELECTRICIAN......................$ 28.15 1.5%+12.12

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 ELEV0033-004 01/01/2017

 Rates Fringes

ELEVATOR MECHANIC................$ 42.13 31.585

FOOTNOTES: 8 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; the Day after Thanksgiving & Christmas Day.

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\* PLUM0300-015 05/01/2018

 Rates Fringes

PIPEFITTER.......................$ 28.71 14.20

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 SUSD2012-025 08/21/2014

 Rates Fringes

CARPENTER (Excludes Drywall

Finishing/Taping, Drywall

Hanging and Metal Stud

Installation)....................$ 17.61 8.53

CEMENT MASON/CONCRETE FINISHER...$ 17.54 2.65

INSULATOR - MECHANICAL

(Duct, Pipe & Mechanical

System Insulation)...............$ 15.20 0.00

IRONWORKER, STRUCTURAL...........$ 23.91 12.05

LABORER: Common or General......$ 16.21 2.21

LABORER: Mason Tender - Brick...$ 20.96 0.00

OPERATOR:

Backhoe/Excavator/Trackhoe.......$ 17.90 0.00

PAINTER (Brush, Roller and

Spray), Excludes Drywall

Finishing/Taping.................$ 23.61 17.90

PLUMBER..........................$ 21.12 9.00

ROOFER...........................$ 13.82 1.34

SHEET METAL WORKER (HVAC Duct

Installation Only)...............$ 19.28 7.63

TRUCK DRIVER: Dump Truck........$ 15.06 1.10

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide

employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is

like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts). Unlisted classifications needed or work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular

rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

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

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and

non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010

08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

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 WAGE DETERMINATION APPEALS PROCESS

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

\* an existing published wage determination

\* a survey underlying a wage determination

\* a Wage and Hour Division letter setting forth a position on a wage determination matter

\* a conformance (additional classification and rate) ruling

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

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

 Branch of Construction Wage Determinations

 Wage and Hour Division

 U.S. Department of Labor

 200 Constitution Avenue, N.W.

 Washington, DC 20210

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

 Wage and Hour Administrator

 U.S. Department of Labor

 200 Constitution Avenue, N.W.

 Washington, DC 20210

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

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

 Administrative Review Board

 U.S. Department of Labor

 200 Constitution Avenue, N.W.

 Washington, DC 20210

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

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 END OF GENERAL DECISION

# LIST OF ATTACHMENTS

See attached document: S02\_Statement of Work (22 pages).

See attached document: S02\_Specifications (87 pages).

See attached document: S02\_Attachment 1 - Toilet Partitions HPL Brochure (6 pages).

See attached document: S02\_Attachment 2 - NuTree Wall Guard Installation Instructions (4 pages).

See attached document: S02\_Attachment 3 - Wall Protection Cleanup Instructions (1 page).

See attached document: S02\_Attachment 4 - Acrovyn Door Standard (9 pages).

See attached document: S02\_Attachment 5a - Nora Installation Guide (22 pages).

See attached document: S02\_Attachment 5b - Nora Post Installation Requirements (6 pages) 02.

See attached document: S02\_Attachment 6 - DI-NOC Technical Data Sheet (16 pages) 02.

See attached document: S02\_Attachment 7 - Basis of Design Bldg 5 Halls and Walls 02.

See attached document: S02\_Attachment 8 - Ceiling Tile Standard (1 page) 02.

See attached document: S02\_Attachment 9 - CLC Sink Light Cut Sheet (4 pages) 02.

See attached document: S02\_DWG - Bldg 5 - 1st Floor (6 pages).

See attached document: S02\_DWG - Bldg 5 - 2nd Floor (1 page).

See attached document: S02\_DWG - Bldg 5 - 3rd Floor (1 page).

See attached document: S02\_DWG - Bldg 5 - 4th Floor (8 pages).

See attached document: S02\_DWG - Bldg 5\_CLC 2 (8 pages).

See attached document: S02\_DWG - Bldg 5\_CLC 3 (8 pages) 02.

See attached document: S02\_Master Finish Schedule.

See attached document: S02\_Lighting Replacement Plan.