

SOLICITATION, OFFER, AND AWARD (Construction, Alteration, or Repair)	1. SOLICITATION NUMBER	2. TYPE OF SOLICITATION	3. DATE ISSUED	PAGE OF PAGES
	36C77625R0063	<input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	06-26-2025	1 69

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

4. CONTRACT NUMBER	5. REQUISITION/PURCHASE REQUEST NUMBER	6. PROJECT NUMBER
		636-502
7. ISSUED BY Department of Veterans Affairs Program Contracting Activity Central 6100 Oak Tree Blvd, Suite 490 Independence OH 44131	CODE 36C776	8. ADDRESS OFFER TO Department of Veterans Affairs Program Contract Activity Central 6100 Oak Tree Blvd, Suite 490 Independence OH 44131
9. FOR INFORMATION CALL:	a. NAME Jacquelyn Wise	b. TELEPHONE NUMBER (Include area code) (NO COLLECT CALLS) jacquelyn.wise@va.gov

SOLICITATION

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

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

In accordance with 38 U.S.C. § 8127 (Public Law 109-461), this project is a competitive Service-Disabled Veteran - Owned Small Business (SDVOSB) Set-Aside.

The contractor shall provide all tools, equipment, materials, labor, supervision, personnel, and shall do all things necessary that will result in the completion of the Construct Sterile Processing Service construction project, in accordance with the attached Specifications and Drawings.

The project is located at the:
Omaha VA Medical Center
4101 Woolworth Avenue
Omaha, NE 68105

VAAR Magnitude of Construction: \$10,000,000 to \$20,000,000

For instructions concerning the organized Site Visit - See Attachment 21 - Site Visit Instructions

Statutory Cost Limitation: The current funding available for this minor construction procurement is approximately \$15M. The Government cannot guarantee additional funds will be made available for award (reference 38 U.S.C 8104).

NAICS: 236220 - Commercial and Institutional Building Construction

11. The Contractor shall begin performance within <u>10</u> calendar days and complete it within <u>545</u> calendar days after receiving <input type="checkbox"/> award, <input checked="" type="checkbox"/> notice to proceed. This performance period is <input checked="" type="checkbox"/> mandatory <input type="checkbox"/> negotiable. (See <u>52.211-10</u>).	
12a. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES," indicate within how many calendar days after award in Item 12B.) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	12b. CALENDAR DAYS 10

13. ADDITIONAL SOLICITATION REQUIREMENTS:

- Sealed offers in original and see instruction copies to perform the work required are due at the place specified in Item 8 by 5PM CDT (hour) local time 08-11-2025 (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.
- An offer guarantee ☒ is, ☐ is not required.
- 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.
- Offers providing less than 120 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

OFFER (Must be fully completed by offeror)

14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)		15. TELEPHONE NUMBER (Include area code)
		16. REMITTANCE ADDRESS (Include only if different than Item 14.)
CODE	FACILITY CODE	

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

AMOUNTS

See Price Schedule

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

19. ACKNOWLEDGMENT OF AMENDMENTS

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

AMENDMENT NUMBER										
DATE										

20a. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER
(Type or print)

20b. SIGNATURE

20c. OFFER DATE

AWARD (To be completed by Government)

21. ITEMS ACCEPTED:

22. AMOUNT

23. ACCOUNTING AND APPROPRIATION DATA

24. SUBMIT INVOICES TO ADDRESS SHOWN IN
(4 copies unless otherwise specified)

ITEM

25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO
☐ 10 U.S.C. 2304(c)() ☐ 41 U.S.C. 3304(a) ()

26. ADMINISTERED BY

36C776

Department of Veterans Affairs
Program Contracting Activity Central

6100 Oak Tree Blvd, Suite 490
Independence OH 44131

27. PAYMENT WILL BE MADE BY

VAFSC

Department of Veterans Affairs
Financial Services Center
Invoices to be Submitted Electronically
<https://www.fsc.va.gov/einvoice.asp>
e-Invoice Setup Info Phone 877-489-6135
PHONE: 877-353-9791 FAX: 512-460-5429

CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

☐ 28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract.

☐ 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.

30a. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED
TO SIGN (Type or print)

31a. NAME OF CONTRACTING OFFICER (Type or print)

Katherine Gibney
Contracting Officer

30b. SIGNATURE

30c. DATE

31b. UNITED STATES OF AMERICA

31c. AWARD DATE

BY

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A.3 PRICE/COST SCHEDULE

ITEM INFORMATION

ITEM NUMBER	DESCRIPTION OF SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	<p>Line Item 0001, Base Bid, (General Construction): Work includes general construction, alterations, roads, walks, grading, drainage, necessary removal of existing structures and construction and certain other items.: demolition, new utilities, relocation of existing utilities, alterations, site utilities, civil, landscape, architectural, structural, mechanical, plumbing, fire protection, electrical, and telecommunications to construct a new sterile processing service addition.</p> <p>The contractor shall complete the entire project no later than 545 Calendar Days after the contractor receives the NOTICE TO PROCEED (NTP)</p> <p>PRINCIPAL NAICS CODE: 236220 - Commercial and Institutional Building Construction PRODUCT/SERVICE CODE: Y1DA - Construction of Hospitals and Infirmaries</p>	1.00	JB		
GRAND TOTAL					

NOTICE

1. Line Item 0001 (Base) contains all the work for this project.
2. Offerors must provide a lump sum price for Line Item 0001 (Base). Failure to do so may render their offeror as unacceptable.
3. Award will be made on Grand Total (Line Item 0001- Base).
4. Pricing shall be submitted in **whole dollar values**. Please do **NOT** include pricing in cents.
5. Offeror is required to fill in their Unique Entity Identifier number associate with SAM.gov in Block No. 14 on Standard Form (SF) 1442.
6. PLEASE NOTE: The Contractor agrees to attend any Post Award conference convened by the contracting activity or contract administration in accordance with Federal Acquisition Regulation subpart 42.5.

INFORMATION REGARDING PROPOSAL MATERIAL, BID GUARANTEE AND BONDS

1.1 BID MATERIAL:

Proposal materials consisting of drawings, specifications, and contract forms are included and/or attached as part of this Request For Proposal (RFP). The VA will not provide printed copies of drawings or specifications. It is the responsibility of the offeror to obtain the proposal materials in a time and manner sufficient to respond to this solicitation by the specified due date.

1.2 BID GUARANTEE:

A Bid Guarantee, Standard Form 24 (SF 24), is required in an amount not less than 20 percent of the proposal price but shall not exceed \$3,000,000. Failure to furnish the required bid guarantee in the proper form and amount, by the time set for receipt of proposals, may result in the proposal being deemed unacceptable. Copies of the SF 24 may be obtained from <https://www.gsa.gov/forms>.

1.3 PAYMENT & PERFORMANCE BONDS:

The offeror to whom award is made will be required to furnish two bonds. A Payment Bond shall be provided on Standard Form 25A (SF 25A) and a Performance Bond shall be provided on Standard Form 25 (SF 25). Both bonds shall be submitted in accordance with FAR 52.228-15 Performance and Payment Bonds - Construction. Copies of SFs 25A and 25 may be obtained from <https://www.gsa.gov/forms>.

1.4 TAXES:

Contractor must take into account FAR 52.229-3; "Federal, State and Local Taxes" and its Special Note in their pricing. The FAR clause and its Special Note provide guidance on taxes being applied to pricing.

INSTRUCTIONS, CONDITIONS, AND OTHER STATEMENTS TO OFFERORS

2.1 AVAILABILITY OF SOLICITATION DOCUMENTS

All solicitation-related documents will be published to Contract Opportunities at <https://sam.gov/>.

2.2 REQUEST FOR PROPOSAL:

This is a Request for Proposal (RFP) in accordance with FAR Part 15. The Government intends to award a contract resulting from this solicitation to the responsible Offeror whose proposal represents the best value to the Government. A responsibility determination will be made in accordance with FAR 9.1, Responsible Prospective Contractors.

The Government reserves the right to award without discussions based upon the initial evaluation of the proposals but reserves the right to open discussions if determined to be necessary. All proposals shall be subject to evaluation by a team of Government personnel. The proposals will be evaluated in accordance with the criteria provided in the solicitation. Using the tradeoff process under best value, it may be in the Government's best interest to consider award to other than the lowest price Offeror or other than highest rated Offeror. The intent is to award to the Offeror that offers the best value to the Government. "Best Value" means the expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirements. This source selection will be a Past Performance-Price tradeoff. The Past Performance factor is significantly more important than price.

2.3 SDVOSB SET-ASIDE

This procurement is a 100% set-aside for Service-Disabled Veteran-Owned Small Business (SDVOSB) concerns. Offers received from other than SDVOSBs will not be considered. All SDVOSBs **must be listed as "certified"** by the Small Business Administration (SBA) Veteran Small Business Certification (VetCert). Offerors must be certified in the SBA VetCert database ([Veteran Small Business Certification \(sba.gov\)](https://www.sba.gov/vet-cert)) at the time of proposal submission and at the time of award. Failure to be certified from the time of proposal submission and the time of award will result in the offeror's proposal being rejected.

2.4 PRE-PROPOSAL SITE VISIT:

A formal site visit has been scheduled for this project. This will be the only opportunity for potential bidders to visit the site. See Attachment 21 – Site Visit Instructions – Construct SPS – Omaha for further information.

All potential bidders, subcontractors and suppliers are strongly encouraged to attend this site visit.

2.5 TECHNICAL QUESTIONS:

Questions of a technical nature must be submitted by prospective offerors via e-mail to: Contract Specialist jacquelyn.wise@va.gov and Contracting Officer katherine.gibney@va.gov. The subject line of each e-mail must read: **636-502 Construct SPS - Omaha, NE - Technical Questions**. Oral questions of a technical nature are not acceptable due to the possibility of misunderstanding or misinterpretation. **THE CUT-OFF DATE AND TIME FOR RECEIPT OF QUESTIONS IS July 14, 2025 at 5:00 CT. To ensure that your questions are received and answered, we strongly recommend that you send your questions to BOTH the Contracting Specialist and Contracting Officer.**

2.6 AMENDMENTS

Amendments to this solicitation will be posted at <https://sam.gov/>. Paper copies of the amendments will NOT be individually mailed. No other notification of amendments will be provided. Potential offerors are advised that they are responsible for obtaining and acknowledging any amendments to the solicitation. Failure to acknowledge an amendment may result in a proposal being considered ineligible for award as incomplete.

2.7 PREPARATION OF PROPOSALS

The Government will not pay for any costs incurred in the preparation and submission of proposals.

2.8 SUBMISSION OF OFFERS:

1. Offers shall be received on or before the date and time specified in Block 13 of the SF-1442. Offers received after the due date and time **will not be evaluated and will be removed from award consideration.**
2. Offerors must submit their proposals via e-mail to **BOTH** the Contract Specialist jacquelyn.wise@va.gov and Contracting Officer katherine.gibney@va.gov. Proposals must be based on solicitation documents issued for RFP number 36C77625R0063. Proposals must be in the format set forth in this document. There will be no public opening of the proposals. Only proposals submitted by email will be accepted. Hard-copy proposals will not be accepted. Proposals must not exceed 5MB total.
3. **WARNING:** Please do not wait until the last minute to submit your offer. Late proposals will not be accepted for evaluation. To avoid submission of late proposals, we recommend the transmission of your proposal files 24 hours prior to the required due date and time. Please be advised that timeliness is determined by the date and time an offeror's proposal is received by the Government's server; not when an offeror attempted transmission. Undeliverable emails due to an offeror's proposal size, incorrect email address, or for any other reason, is not the responsibility of the government. Offerors are encouraged to review and ensure that sufficient bandwidth is available on their end of the transmission to successfully send electronic submissions, and to verify receipt of the proposal by the government.
4. Submitted proposals should contain the offeror's best terms. The offeror may only submit one proposal per registered SDVOSB. The Government reserves the right to contact offerors and/or hold discussions if the Contracting Officer determines them to be necessary. Offerors are cautioned that discussions may not be conducted, and Offerors should not assume that they will have an opportunity to revise their proposals after submission.
5. Period of Acceptance of Offers/Quotations: The offeror agrees to hold the prices in its offer/quotation firm for no less than 120 calendar days from the date specified for receipt of offers/quotations.

2.9 PROPOSAL VOLUMES AND FORMAT

These instructions prescribe the format of proposals and the development and presentation of the proposal data. These instructions are designed to ensure the proper submission of

information necessary to provide for comprehensive evaluation of proposals. Offerors shall carefully review this section prior to commencing proposal preparation and take the necessary measures to ensure that the information submitted is factual, accurate, and complete.

1. Proposal Volumes:

Three separate volumes are required to be submitted as three separate PDFs. Each volume and section should stand alone and not be cross referenced with other volumes and/or sections.

The three volumes shall be labeled:

Volume I – Past Performance

Volume II – Price

Volume III – Administrative

2. Proposal Format:

Each volume must be submitted as searchable PDF. Font type shall be Arial normal with no smaller than size 12 font with normal proportional spacing, including in all pictures, charts and graphs. Margins shall be no smaller than 1" on each side on standard 8.5" x 11" pages. The background color of each page of the submission shall be white, and text shall be black. Text lines must be single-spaced with no less than "1" line spacing.

Each volume of the proposal has a specific page limit as identified below. Any pages in excess of the allotted amount will be removed and not included as part of the evaluation. Offerors must include page numbers and its company name in the header or footer of each page of all attachments.

Each volume must be formatted as follows:

Volume I Format:

1. Volume I shall not include any information on pricing directly related to the project. It shall only include information on Factor 1, Past Performance.
2. The Offeror's proposal must address each evaluation factor requirement listed in this solicitation. Failure to submit a proposal in the format required that addresses each factor will result in the proposal being deemed ineligible for award.
3. **The page limit for Volume I is 20 pages. CPARS and PPQs do not count toward this page limit.**

Volume II Format:

1. Volume II shall only contain information on Factor 2, Price, for pricing directly related to the project. **There is no page limit for Volume II.**
2. Offerors shall complete the pricing attachments and return them with the proposal. Failure to provide complete pricing information and a proper bid guarantee will result in the proposal being deemed ineligible for award.

Volume III Format:

1. Volume III shall only contain the following three requirements: responsibility information (representations and certifications), Limitations on Subcontracting Certificate of Compliance, and Joint Venture Certifications and Agreement (if applicable).
2. **There is no page limit for Volume III.**

2.10 INFORMATION TO BE SUBMITTED

The Offeror shall be held responsible for the validity of all information supplied in his/her proposal, including information provided by potential subcontractors. Should subsequent investigation disclose that the fact and conditions were not as stated, the proposal may be rejected and receive no further consideration.

Failure to submit a proposal in the format required that addresses each factor and includes completed copies of all required documents identified below will result in the proposal being deemed ineligible for award and rejected. The Government reserves the right to first determine whether a proposal is timely, complete, and compliant and then reject late, incomplete, or non-compliant proposals before evaluating proposals on their merits.

Offerors shall submit the following information as part of the proposal in order to be evaluated and considered for award:

Volume I:**Factor 1, Past Performance**

The contractor shall provide recent and relevant information regarding an Offeror's actions under previously awarded contracts, and completed construction contracts, which were issued by either: Federal, State, or Local Government Agencies; and/or Private Organizations. Note, VHA and healthcare experience is preferred.

Offerors should identify no less than THREE (3), and no more than FIVE (5), completed construction contracts the offeror considers most relevant in demonstrating the ability to perform the proposed effort. The size, scope, and complexity of these projects should demonstrate a breadth of experience with facilities construction, alterations, and repair of buildings, as a prime contractor or subcontractor where multiple trades were involved using NAICS 236220. Projects should demonstrate experience in an active hospital setting, preferably with the VHA with at least, but not limited to the following:

- Phasing and scheduling of a multimillion-dollar project
- Infection control risk assessments, infection control, and safety
- Construction and coordinating work on the existing roof of an active patient care area
- Structural, mechanical, electrical, plumbing and heating, ventilation and air conditioning (HVAC)

- Coordination with subcontractors, VA facilities, and keeping the hospital running with little to no shutdowns of existing MEP
- Facility utilities systems

Recent Successful Past Performance: Projects submitted by the Offeror shall be **completed** within the past FIVE (5) years of the date of issuance of this RFP to be considered recent.

At least one of the projects submitted must have been completed by the offeror as the Prime. Offerors lacking relevant past performance history may submit information regarding predecessor companies or key personnel who have performed on other contracts. Such information shall, as a minimum, include: Name(s) of Predecessor Company/Sub-contractor and/or Key Personnel and include: Complete Address and Point of Contact; Telephone Number; and email address. However, if all project experience is submitted by relying on predecessor companies or key personnel from other contracts, the experience will be evaluated less favorably.

Each project submitted for past performance evaluation shall use the Project Information Sheet for Contractors (Attachment 17). In addition to the project sheets, include a rationale supporting the assertion of relevance and identify aspects of the contracts deemed relevant and how they relate to the proposed effort. Information shall include details on complexity, magnitude, challenges, and degree of success. Offeror is encouraged to include supporting documents such as photographs that support the narrative. Offerors shall also provide a narrative discussing successful past performance that dealt with unique situations. Such situations could include challenges with schedule, unforeseen site conditions, or other unusual factors, and provide details on how the offeror overcame those challenges. In addition, explain corrective actions taken in the past, if any, for substandard performance and any current performance problems, such as cost overruns, extended performance periods, numerous warranty calls, etc. Merely having past substandard performance and/or current performance problems does not automatically equate to a Limited or No Confidence rating, since the problems encountered may have been on a more complex project or an Offeror may have subsequently demonstrated the ability to overcome the past substandard performance and/or current performance problems. The Offeror is required to clearly demonstrate management actions employed in overcoming past substandard performance and/or current performance problems and the effects of those actions, in terms of improvements achieved or problems rectified. There is no required format for submission of this information.

Since the Government may not necessarily interview all the sources provided by the Offerors, it is incumbent upon the Offerors to explain the relevance of the data provided. Offerors are reminded that the burden of proving low performance risk rests with the Offerors.

If an offeror has no past performance history of relevance, the offeror must affirmatively state it possesses no past performance history of relevance. Without this statement, the Offeror will be rated less favorably for lack of attention to detail by not providing all required project information.

For offerors that are joint ventures, the evaluation will take into account past performance of the joint venture as well as the past performance of each party to the joint venture.

If an Offeror has recent and relevant past performance to submit, a corresponding completed and signed Past Performance Questionnaire (PPQ) or a CPARS must be submitted for each project in accordance with the direction below.

If a completed past performance evaluation is available in CPARS, it shall be submitted with the proposal for each project identified. If there is not a completed past performance evaluation available in CPARS, then the Offeror shall submit PPQ (Attachment 18) for that project. The Offeror shall notify their client that the PPQ shall be submitted back to the Offeror and incorporated into the proposal submission. If the Offeror is unable to obtain a completed PPQ from a client for a project before the proposal closing date, the Offeror shall complete and submit with the proposal the first page of the PPQ, which will provide contract and client information for the respective project(s), and documentation of the attempts to have the PPQ signed. The Government may make reasonable attempts to contact the client noted for that project(s) to obtain the PPQ information; however, the Government is not responsible for the failure to obtain information from a POC on a PPQ. Offerors should follow-up with clients/references to help ensure timely submittal of questionnaires.

Past performance information pertaining to a subcontractor cannot be disclosed to the prime offeror without the subcontractor's consent. **Any Teaming Partner must complete an Attachment 19 form, "Subcontractor Information and Consent Form" to be considered for relevant past performance.** If the subcontractor does not consent, include a statement to that effect. Written references for subcontractors may be included and are encouraged to do so, however, subcontractors do NOT need to provide Past Performance Questionnaires.

Teaming Agreement: If a teaming arrangement is contemplated, provide complete information as to the arrangement, including any relevant and recent past performance information on previous teaming arrangements with same partner. If this is a first-time joint effort, each party to the arrangement must provide a list of past contracts of relevance.

Volume II: Factor 2, Price

Complete in its entirety the "Offer" portion of the SF1442 (Page 2 of this solicitation) including signed acknowledgement of any amendments issued. An official having the authority to contractually bind your company must sign the SF1442 in accordance with FAR 4.102. The person signing the proposal shall initial each erasure or change appearing on any proposal form.

To be considered for award, offerors must submit a price proposal (Price Schedule (Solicitation Section A.3) and a bid guarantee. The specifications and drawings are attached to this solicitation.

The Price Schedule will be used to determine price reasonableness. The Government also reserves the right to use the Price Schedule as part of discussions during the competitive range, if they are required.

The prices must be Firm Fixed Price. The Offeror must take care not to include remarks that take exception to the Government's Specifications/Drawings or pricing requirements or

otherwise preclude the Government from evaluating the offer, which will result in the offeror's proposal being rejected.

Bid Guarantee: The Offeror shall furnish a bid guarantee as stipulated in the solicitation (see **FAR 52.228-1**). Pricing shall be Firm Fixed Price. The bid guarantee shall be provided on Standard Form 24. The amount of the bid guarantee shall be 20 percent of the bid price or \$3,000,000, whichever is less. The bid bond shall be submitted as part of the electronic submission (the requirement for an original bond, with the original signatures, notarization and seals has been eliminated).

Failure to furnish the required bid guarantee on the proper form and for the proper amount by the time specified in Block 13 of SF 1442, will result in rejection of the proposal.

Volume III: Administrative (no page limit):

If an offeror fails to include all of the administrative requirements below in its proposal, then the proposal will be deemed incomplete and ineligible for award, and the proposal will not be evaluated.

Each offeror must submit the following:

a. Representations and Certifications:

1. A completed copy of the offeror's representations and certifications. As the provision at FAR 52.204-7 is included in the solicitation, FAR 52.204-8(d) applies and the fill-in for FAR 52.204-8(b)(2) does not need to be completed. The offeror is required to complete the annual representations and certifications electronically at <https://www.sam.gov>.
2. Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment: Offeror shall provide their response to FAR 52.204-24(d) Representation and attach the completed provision to the proposal. Failure to complete and attach the representation will deem the proposal ineligible for award.
3. Information Regarding Responsibility Matters: Offeror shall provide their response to FAR 52.209-7(b) Information Regarding Responsibility Matters and attach the completed provision to the proposal. Failure to complete and attach the representation will deem the proposal ineligible for award.
4. Violation of Arms Controls Treaties or Agreements: Offeror shall provide their response to FAR 52.209-13(b) Violation of Arms Controls Treaties or Agreements and attach the completed provision to the proposal. Failure to complete and attach the representation will deem the proposal ineligible for award.
5. Tax on Certain Foreign Procurements – Notice and Representation: The offeror shall provide their response to FAR 52.229-11(d) and attach the completed provision to the proposal. Failure to complete and attach the representation will deem the proposal ineligible for award.

6. Post Award Small Business Program Rerepresentations: Offeror shall provide their response to FAR 52.219-28(h), if applicable, and attach the completed provision to the proposal. Failure to complete and attach the representation, if applicable, will deem the proposal ineligible for award.
 7. Complete VAAR 852.219-75 VA Notice of Limitations on Subcontracting – Certificate of Compliance for Services and Construction for the project. This certification is required by VAAR 852.219-75. The attachment, incorporated herein by reference, with the clause language is included as Attachment 20 and the entire attachment (both the clause and the completed certification) must be completed and returned with the proposal submission attached as a separate document. The completed and signed form will become part of the official award documentation. Failure to complete and attach the executed certification attachment will deem the proposal ineligible for evaluation and award.
- b. **Notice to SDVOSB Joint Venture/Mentor Protegee:** Any offeror submitting a proposal as a joint venture must provide a certification from the certified SDVOSB joint partner, signed by an authorized official of each partner to the joint venture, stating that the parties to the joint venture (1) have entered into a joint venture agreement that fully complies with paragraph (c) of 13 CFR § 128.402 and (2) will perform the contract in compliance with the joint venture agreement. Failure to submit the certification with the offeror's proposal may result in the rejection of the proposal. A copy of the joint venture agreement must be submitted with the proposal.

2.11 BASIS FOR AWARD – EVALUATION METHOD

General Information:

For this procurement, the government will award a contract resulting from the solicitation to the responsible offeror whose offer conforms to the solicitation and is evaluated as being the best value and most advantageous to the government, price and other factors considered. This is a Past Performance-Price trade-off. The Past Performance factor is significantly more important than price. The Contracting Officer will conduct an initial proposal screening after closing for determination of completeness and compliance with the solicitation requirements prior to commencing evaluation. Failure to provide a complete proposal consisting of all required information/documents and pricing for the project, as noted above, will result in the proposal being determined incomplete and no longer considered for award without further evaluation.

Factor 1 Past Performance

Past Performance will be evaluated on the basis of recency, relevancy, and quality to arrive at an overall Confidence Rating.

Recency and Relevancy Evaluation: The Government will evaluate each project submitted to ensure the project is recent, meaning projects must have been completed within the last five (5) years. Projects older than five years will not be evaluated. The Government will evaluate each recent project to determine the relevancy of the project to the solicitation requirements. The relevancy determination will be based on the Project Information Sheet provided by the Offeror.

Performance Quality Assessment:

The Government will consider the performance quality of any submitted project determined to be recent and rated somewhat relevant, relevant, or very relevant. In addition to evaluating the extent to which the Offeror's performance meets contract specification requirements, the assessment will also consider aspects such as: the Offeror's adhering to schedules (including the administrative aspects of performance); reasonable and cooperative behavior and commitment to customer satisfaction; controlling project cost; the timeliness of contract completion and submission of deliverables; the contractor's compliance with the terms and conditions of the contract; the overall quality of the work performed on the contract; the Offeror's managerial performance (to include use and control of subcontractors); and whether or not the reference would enter into a contract with the contractor again.

The Government reserves the right to conduct a past performance assessment using information obtained from CPARS and any other sources deemed appropriate by the CO. Other sources may include, but are not limited to, inquiries of owner representative(s), Federal Awardee Performance and Integrity Information System (FAPIS), Electronic Subcontract Reporting System (eSRS), and any other known sources not provided by the Offeror. While the Government may elect to consider data obtained from other sources, the burden of providing current, accurate and complete past performance information rests with the Offeror.

Overall Performance Confidence Rating: The purpose of the past performance evaluation is to assess the degree of confidence the Government has in the Offeror's ability to meet the solicitation requirements based on the Offeror's demonstrated record of performance. The Government will combine the recency, relevancy, and performance quality assessment considered for the Offeror to assign a single Past Performance Confidence Rating of Substantial Confidence, Satisfactory Confidence, Neutral Confidence, Limited Confidence or No Confidence.

Per FAR 15.305(a)(2)(iv), Contractors without relevant past performance or for whom past performance information is not available, will be rated neither favorably nor unfavorably on past performance. Offerors with no recent and relevant performance history or whose performance record is so sparse that no meaningful confidence assessment rating can be reasonably assigned shall receive the "Neutral Confidence" rating, meaning the rating is treated neither favorably nor unfavorably.

Factor 2 Price

The Offeror's price proposal will be evaluated by the Contracting Officer utilizing one or more of the price analysis techniques set forth in FAR 15.305. The Offeror's evaluated price will be the price for construction submitted and presented to the Contracting Officer for consideration. The Price Schedule will be evaluated for reasonableness.

In accordance with (IAW) FAR 28.101-1, a bid bond is required for the project and will be evaluated. The bid bond signature must be identical to the bid and not signed digitally. The bid bond must be signed by both the Principal **AND** the agent, and BOTH must provide a corporate seal. A performance and payment bond is required.

Price Reasonableness: The proposed prices will be analyzed for fairness and reasonableness. The Government may use various price analysis techniques and procedures to ensure a fair and reasonable price. Examples of such techniques

include, but are not limited to, the total evaluated price compared to historical prices for similar efforts, comparison to the Independent Government Estimate (IGE), and price competition obtained by the other offerors' proposals submitted in response to this RFP.

2.12 DETERMINATION OF RESPONSIBILITY

A Determination of Responsibility will be conducted for the apparent successful offeror prior to award of the project. The above information, along with other information obtained from Government systems, such as, but not limited to the OSHA and EPA online inspection history databases, as well as any other information the Contracting Officer has determined to be valid, will be used to make the Determination of Responsibility. NOTE: Any information received by the Government that would be cause for a negative Determination of Responsibility may make the offeror ineligible for award.

2.13 VETS 4212

Title 38, USC Section 4212(d), codified at 41 CFR Section 61-300, requires that federal contractors report, at least annually, the number and category of veterans who are within their workforce. Submission of the VETS-4212 reporting information can be done electronically at: <http://www.dol.gov/vets/vets4212.htm>. Award cannot be made unless the awardee has filed their VETS-4212 report. Therefore, all offerors are encouraged to file every year. The Contracting Officer may request a copy of the email confirmation of receipt notification prior to awarding the project.

2.14 SYSTEM FOR AWARD MANAGEMENT (SAM)

The FAR requires that federal contractors register in the SAM database at <https://sam.gov> and enter all mandatory information into the system. Offerors are required to be registered in SAM at the time an offer is submitted and at award in order to comply with the annual representations and certifications requirements (see **FAR 52.204-7**). Failure to be registered in SAM.gov at the time of offer and at award will result in removal from the competition. The initial screening of proposals includes reviewing SAM.gov for compliance with this section.

2.15 REVIEW REQUIRED REGISTRATION WITH CONTRACTOR PERFORMANCE ASSESSMENT REPORTING SYSTEM (CPARS)

As prescribed in Federal Acquisition Regulation (FAR) Part 42.1502(e), the Department of Veterans Affairs (VA) evaluates contractor past performance on all construction contracts that exceed \$750,000 and shares those evaluations with other Federal Government contract specialists and procurement officials. The FAR requires that the contractor be provided an opportunity to comment on past performance evaluations prior to each report closing. To fulfill this requirement, VA uses an online database, CPARS, which is maintained by the Naval Sea Logistics Center in Portsmouth, New Hampshire. CPARS is available to all Federal agencies and is the system used to collect and retrieve performance assessment reports used in source selection determinations. CPARS also includes access to the federal awardee performance and integrity information system (FAPIS). FAPIS is a web-enabled application accessed via CPARS for contractor responsibility determination information.

Each contractor whose contract award is estimated to exceed \$750,000 is required to register with CPARS database at the following web address: <http://www.cpars.gov/>. Help in registering can be obtained by contacting Customer Support Desk @ DSN: 684-1690 or COMM: 207- 438-1690. Registration should occur no later than thirty days after contract award and must be kept current should there be any change to the contractor's registered representative.

For contracts with a period of one year or less, the contracting officer will perform a single evaluation when the contract is complete. For contracts exceeding one year, the contracting officer will evaluate the contractor's performance annually. Interim reports will be filed each year until the last year of the contract, when the final report will be completed. The report shall be assigned in CPARS to the contractor's designated representative for comment. The contractor representative will have thirty days to submit any comments and re-assign the report to the VA contracting officer.

Failure to have a current registration in the CPARS database, or to re-assign the report to the VA contracting officer within those thirty days, will result in the Government's evaluation being placed on file in the database with a statement that the contractor failed to respond.

2.16 BACKGROUND INVESTIGATIONS AND SPECIAL AGREEMENT CHECKS

All contractor employees are subject to the same level of investigation as VA employees who have access to VA Sensitive Information. The level of background investigation is commensurate with the level of access needed to perform all work as identified in the solicitation documents. This requirement is applicable to all subcontractor personnel requiring the same access. As per VA Directive 0710, costs of background investigations will be borne by the contractor. Please be advised that the awardee will need to coordinate with the VA Medical Center concerning badging requirements.

2.17 REFERENCES TO VA ENGINEER, RESIDENT ENGINEER, OR PROJECT MANAGER

Any reference contained within the solicitation/contract specifications and/or drawings to the "VA Engineer," "Resident Engineer," or "Project Manager," or their abbreviations shall be replaced with "Contracting Officer's Representative (COR)."

2.18 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)

2.19 52.228-1 BID GUARANTEE (SEP 1996)

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

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

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

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

(c) The amount of the bid guarantee shall be 20 percent of the bid price or \$3,000,000.00, whichever is less.

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

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

(End of Provision)

2.20 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:

Katherine Gibney

Hand-Carried Address:

Katherine Gibney
Department of Veterans Affairs
Program Contracting Activity Central
6100 Oak Tree Blvd, Suite 490
Independence OH 44131

Mailing Address:

Katherine Gibney
Department of Veterans Affairs
Program Contracting Activity Central
6100 Oak Tree Blvd, Suite 490
Independence OH 44131

(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)

2.21 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—

See Attachment 21 - Site Visit Instructions

(c) Participants will meet at—

See Attachment 21 - Site Visit Instructions

(End of Provision)

2.22 VAAR 852.233-71 ALTERNATE PROTEST PROCEDURE (OCT 2018)

(a) As an alternative to filing a protest with the Contracting Officer, an interested party may file a protest by mail or electronically with: Executive Director, Office of Acquisition and Logistics, Risk Management and Compliance Service (003A2C), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or Email: EDProtests@va.gov.

(b) The protest will not be considered if the interested party has a protest on the same or similar issue(s) pending with the Contracting Officer.

(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

2.23 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

<https://www.acquisition.gov/browse/index/far>
<https://www.va.gov/oal/library/vaar/>

(End of Provision)

FAR
Number
52.204-7

Title
SYSTEM FOR AWARD MANAGEMENT

Date
NOV 2024

52.204-16	COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING	AUG 2020
52.204-22	ALTERNATIVE LINE ITEM PROPOSAL	JAN 2017
52.215-1	INSTRUCTIONS TO OFFERORS—COMPETITIVE ACQUISITION	NOV 2021
52.222-5	CONSTRUCTION WAGE RATE REQUIREMENTS—SECONDARY SITE OF THE WORK	MAY 2014
52.225-12	NOTICE OF BUY AMERICAN REQUIREMENT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS	MAY 2014
52.228-17	INDIVIDUAL SURETY—PLEDGE OF ASSETS (BID GUARANTEE)	FEB 2021
52.236-28	PREPARATION OF PROPOSALS—CONSTRUCTION	OCT 1997
852.233-70	PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION	OCT 2018
852.239-75	INFORMATION AND COMMUNICATION TECHNOLOGY ACCESSIBILITY NOTICE	FEB 2023

REPRESENTATIONS AND CERTIFICATIONS

System updates may lag policy updates. The System for Award Management (SAM) may continue to require entities to complete representations based on provisions that are not included in agency solicitations, including 52.223-22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation, and paragraph (t) of 52.212-3, Offeror Representations and Certifications— Commercial Products and Commercial Services. Contracting officers will not consider these representations when making award decisions or enforce requirements. Entities are not required to, nor are they able to, update their entity registration to remove these representations in SAM.

3.1 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2025)(DEVIATION FEB 2025)

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

(2) The small business size standard is \$45 Million.

(3) The small business size standard for a concern that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce is 500 employees, or 150 employees for information technology value-added resellers under NAICS code 541519, if the acquisition—

(i) Is set aside for small business and has a value above the simplified acquisition threshold;

(ii) Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or

(iii) Is an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(b)(1) If the provision at 52.204-7, System for Award Management, is included in this solicitation, paragraph (d) of this provision applies.

(2) If the provision at 52.204-7, System for Award Management, is not included in this solicitation, and the Offeror has an active registration in the System for Award Management (SAM), the Offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:

☐ (i) Paragraph (d) applies.

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

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

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

(A) The acquisition is to be made under the simplified acquisition procedures in Part 13;

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

(C) The solicitation is for utility services for which rates are set by law or regulation.

(ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.

(iii) 52.203-18, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements—Representation. This provision applies to all solicitations.

(iv) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the provision at 52.204-7, System for Award Management.

(v) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that—

(A) Are not set aside for small business concerns;

(B) Exceed the simplified acquisition threshold; and

(C) Are for contracts that will be performed in the United States or its outlying areas.

(vi) 52.204-26, Covered Telecommunications Equipment or Services—Representation. This provision applies to all solicitations.

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

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

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

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

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

(xii) 52.219-1, Small Business Program Representations (Basic, Alternates I, and II). This provision applies to solicitations when the contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied part 19 in accordance with 19.000(b)(1)(ii).

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

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

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

(xiii) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied part 19 in accordance with 19.000(b)(1)(ii).

(xiv) [Reserved]

(xv) [Reserved]

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

(xvii) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of biobased products in USDA-designated product categories; or include the clause at 52.223-2, Reporting of Biobased Products Under Service and Construction Contracts.

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

(xix) 52.223-22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation. This provision applies to solicitations that include the provision at 52.204-7.

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

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

(A) If the acquisition value is less than \$50,000, the basic provision applies.

(B) If the acquisition value is \$50,000 or more but is less than \$100,000, the provision with its Alternate II applies.

(C) If the acquisition value is \$100,000 or more but is less than \$102,280, the provision with its Alternate III applies.

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

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

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

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

(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:

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

☒ (ii) 52.204-20, Predecessor of Offeror.

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

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

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

☐ (vi) 52.227-6, Royalty Information.

☐ (A) Basic.

☐ (B) Alternate I.

☐ (vii) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

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

FAR Clause #	Title	Date	Change

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.

3.2 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)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
52.204-24	REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT	NOV 2021
52.209-7	INFORMATION REGARDING RESPONSIBILITY MATTERS	OCT 2018
52.209-13	VIOLATION OF ARMS CONTROL TREATIES OR AGREEMENTS—CERTIFICATION	NOV 2021
52.229-11	TAX ON CERTAIN FOREIGN PROCUREMENTS—NOTICE AND REPRESENTATION	JUN 2020

GENERAL CONDITIONS

4.1 52.203-14 DISPLAY OF HOTLINE POSTER(S) (NOV 2021)

(a) *Definition.*

United States, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) *Display of fraud hotline poster(s).* Except as provided in paragraph (c)—

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites-

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

Poster(s)	Obtain from
VA Hotline Poster	http://www.va.gov/oig/hotline/default.asp

(Contracting Officer shall insert—

(i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster; and

(ii) The website(s) or other contact information for obtaining the poster(s).)

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed the threshold specified in Federal Acquisition Regulation 3.1004(b)(1) on the date of subcontract award, except when the subcontract—

(1) Is for the acquisition of a commercial product or commercial service; or

(2) Is performed entirely outside the United States.

(End of Clause)

4.2 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 545 days after the date the contractor receives the notice to proceed. The time stated for completion shall include final cleanup of the premises.

(End of Clause)

4.3 52.219-28 POSTAWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JAN 2025)

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

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

Small business concern—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (d) of this clause.

(2) *Affiliates*, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

(b) If the Contractor represented that it was any of the small business concerns identified in 19.000(a)(3) prior to award of this contract, the Contractor shall rerepresent its size and socioeconomic status according to paragraph (f) of this clause or, if applicable, paragraph (h) of this clause, upon occurrence of any of the following:

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

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

(3) For long-term contracts—

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

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

(c) If the Contractor represented its status as any of the small business concerns identified at 19.000(a)(3) prior to award of this contract, the Contractor shall rerepresent its size and socioeconomic status according to paragraph (f) of this clause or, if applicable, paragraph (h) of this clause, for the NAICS code assigned to an order (except that paragraphs (c)(1) through (3) of this clause do not apply to an order issued under a Federal Supply Schedule contract at subpart 8.4)—

(1) Set aside exclusively for a small business concern identified at 19.000(a)(3) that is issued under an unrestricted multiple-award contract, unless the order is issued under the reserved portion of an unrestricted multiple-award contract (e.g., an order set aside for a woman-owned small business under a multiple-award contract that is not set-aside, unless the order is issued under the reserved portion of the multiple-award contract);

(2) Issued under a multiple-award contract set aside for small businesses that is further set aside for a specific socioeconomic category that differs from the underlying multiple-award contract (e.g., an order set aside for a HUBZone small business concern under a multiple-award contract that is set aside for small businesses);

(3) Issued under the part of the multiple-award contract that is set aside for small businesses that is further set aside for a specific socioeconomic category that differs from the underlying set-aside part of the multiple-award contract (e.g., an order set aside for a WOSB concern under the part of the multiple-award contract that is partially set aside for small businesses); and

(4) When the Contracting Officer explicitly requires it for an order issued under a multiple-award contract, including for an order issued under a Federal Supply Schedule contract (see 8.405–5(b) and 19.301–2(b)(2)).

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

(e) The small business size standard for a Contractor providing an end item that it does not manufacture, process, or produce itself, for a contract other than a construction or service contract, is 500 employees, or 150 employees for information technology value-added resellers under NAICS code 541519, if the acquisition—

(1) Was set aside for small business and has a value above the simplified acquisition threshold;

(2) Used the HUBZone price evaluation preference regardless of dollar value, unless the Contractor waived the price evaluation preference; or

(3) Was an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

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

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

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

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

(2) *[Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.]* The Contractor represents that it [] is, [] is not, a small disadvantaged business concern as defined in 13 CFR 124.1001.

(3) *[Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.]* The Contractor represents that it [] is, [] is not a women-owned small business concern.

(4) Women-owned small business (WOSB) concern eligible under the WOSB Program. The Contractor represents that it [] is, [] is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). *[The Contractor shall enter the name and unique entity identifier of each party to the joint venture: _____.]*

(5) Economically disadvantaged women-owned small business (EDWOSB) joint venture. The Contractor represents that it [] is, [] is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). *[The Contractor shall enter the name and unique entity identifier of each party to the joint venture: _____.]*

(6) *[Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.]* The Contractor represents that it [] is, [] is not a veteran-owned small business concern.

(7) *[Complete only if the Contractor represented itself as a veteran-owned small business concern in paragraph (h)(6) of this clause.]* The Contractor represents that it [] is, [] is not a service-disabled veteran-owned small business concern.

(8) *Service-disabled veteran-owned small business (SDVOSB) joint venture eligible under the SDVOSB Program.* The Contractor represents that it [] is, [] is not an SDVOSB joint venture eligible under the SDVOSB Program that complies with the requirements of 13 CFR 128.402.

[The Contractor shall enter the name and unique entity identifier of each party to the joint venture: ____.]

(9) [Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.] The Contractor represents that—

(i) It [] is, [] is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR part 126; and

(ii) It [] is, [] is not a HUBZone joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (h)(8)(i) of this clause is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [The Contractor shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: _____.] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

[Contractor to sign and date and insert authorized signer's name and title.]

(End of Clause)

4.4 52.222-6 CONSTRUCTION WAGE RATE REQUIREMENTS (AUG 2018) (DEVIATION FEB 2025)

(a) *Definition.*—"Site of the work"—

(1) Means—

(i) *The primary site of the work.* The physical place or places where the construction called for in the contract will remain when work on it is completed; and

(ii) *The secondary site of the work, if any.* Any other site where a significant portion of the building or work is constructed, provided that such site is—

(A) Located in the United States; and

(B) Established specifically for the performance of the contract or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided—

(i) They are dedicated exclusively, or nearly so, to performance of the contract or project; and

(ii) They are adjacent or virtually adjacent to the "primary site of the work" as defined in paragraph (a)(1)(i), or the "secondary site of the work" as defined in paragraph (a)(1)(ii) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are

determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work" even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

(b)(1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Construction Wage Rate Requirements statute on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Construction Wage Rate Requirements (Davis-Bacon Act) poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

(c)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an

additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division
U.S. Department of Labor
Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to paragraphs (c)(2) and (c)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(d) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(e) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Construction Wage Rate Requirements statute have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(End of Clause)

4.5 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (MAY 2014) (DEVIATION FEB 2025)

(a) *Definition.* Construction, alteration or repair, as used in this clause, means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation—

(1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;

(2) Painting and decorating;

(3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;

(4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (a)(1)(i) and (ii) of the “site of the work” as defined in the FAR clause at 52.222-6, Construction Wage Rate Requirements of this contract, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the “site of the work” definition; and

(5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the “site of the work” definition in paragraph (a)(1)(ii) of the FAR clause at 52.222-6, Construction Wage Rate Requirements, and the physical place or places where the building or work will remain (paragraph (a)(1)(i) of the FAR clause at 52.222-6, in the “site of the work” definition).

(b) The Contractor shall insert in any subcontracts for construction, alterations and repairs within the United States the clauses entitled—

(1) Construction Wage Rate Requirements;

(2) Contract Work Hours and Safety Standards—Overtime Compensation (if the clause is included in this contract);

(3) [Reserved]

(4) Payrolls and Basic Records;

(5) Compliance with Copeland Act Requirements;

(6) Withholding of Funds;

(7) Subcontracts (Labor Standards);

(8) Contract Termination—Debarment;

(9) Disputes Concerning Labor Standards;

(10) Compliance with Construction Wage Rate Requirements and Related Regulations; and

(11) Certification of Eligibility.

(c) The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor performing construction within the United States with all the contract clauses cited in paragraph (b).

(d)(1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each subcontract for construction within the United States, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (b) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e) in all subcontracts for construction within the United States.

(End of Clause)

4.6 52.222-12 CONTRACT TERMINATION—DEBARMENT (MAY 2014) (DEVIATION FEB 2025)

A breach of the contract clauses entitled Construction Wage Rate Requirements, Contract Work Hours and Safety Standards—Overtime Compensation, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Construction Wage Rate Requirements and Related Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

(End of Clause)

4.7 52.223-2 REPORTING OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (MAY 2024)(DEVIATION FEB 2025)

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

Biobased product means a product determined by the U.S. Department of Agriculture (USDA) to be a commercial product or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials, or that is an intermediate ingredient or feedstock. The term includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging. ([7 U.S.C. 8101](#)) ([7 CFR 4270.2](#)).

USDA-designated product category means a generic grouping of products that are or can be made with biobased materials—

(1) That are listed by USDA in a procurement guideline available at <https://www.biopreferred.gov/resources/categories.html>; and

(2)For which USDA has provided purchasing recommendations available at <https://www.biopreferred.gov> or [7 CFR part 4270](#).

(b)The Contractor shall report to <https://www.sam.gov>, with a copy to the Contracting Officer, on the product types and dollar value of any biobased products in USDA-designated product categories purchased by the Contractor during the previous Government fiscal year, between October 1 and September 30; and

(c)Submit this report no later than—

(1)October 31 of each year during contract performance; and

(2)At the end of contract performance.

(End of Clause)

4.8 52.223-23 SUSTAINABLE PRODUCTS AND SERVICES (MAY 2024) (DEVIATION FEB 2025)

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

Biobased product means a product determined by the U.S. Department of Agriculture (USDA) to be a commercial product or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials, or that is an intermediate ingredient or feedstock. The term includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging. (7 U.S.C. 8101) (7 CFR part 4270.2).

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process. (42 U.S.C. 6903).

Sustainable products and services means:

(1) Products containing recovered material designated by the U.S. Environmental Protection Agency (EPA) under the Comprehensive Procurement Guidelines (42 U.S.C. 6962) (40 CFR part 247) ([https:// www.epa.gov/smm/comprehensiveprocurement-guideline-cpgprogram#products](https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpgprogram#products)).

(2) Energy- and water-efficient products that are ENERGY STAR® certified or Federal Energy Management Program (FEMP)- designated products (42 U.S.C. 8259b) (10 CFR part 436, subpart C) ([https:// www.energy.gov/eere/femp/search-energyefficient-products](https://www.energy.gov/eere/femp/search-energyefficient-products) and [https:// www.energystar.gov/products?s=mega](https://www.energystar.gov/products?s=mega)).

(3) Biobased products meeting the content requirement of the USDA under the BioPreferred® program (7 U.S.C. 8102) (7 CFR part 4270) (<https://www.biopreferred.gov>).

(4) Acceptable chemicals, products, and manufacturing processes listed under EPA's Significant New Alternatives Policy (SNAP) program, which ensures a safe and smooth

transition away from substances that contribute to the depletion of stratospheric ozone (42 U.S.C. 76711) (40 CFR part 82, subpart G) (<https://www.epa.gov/snap>).

(b) *Requirements.*

(1) The sustainable products and services, including the purchasing program and type of product or service, that are applicable to this contract, and any products or services that are not subject to this clause, will be set forth in the statement of work or elsewhere in the contract.

(2) The Contractor shall ensure that the sustainable products and services required by this contract are—

(i) Delivered to the Government;

(ii) Furnished for use by the Government;

(iii) Incorporated into the construction of a public building or public work; and

(iv) Furnished for use in performing services under this contract, where the cost of the products is a direct cost to this contract (versus costs which are normally applied to the Contractor's general and administrative expenses or indirect costs). This includes services performed by contractors performing management and operation of Government owned facilities to the same extent that, at the time of award, an agency would be required to comply if an agency operated or supported the facility.

(c) *Resource.* The Green Procurement Compilation (GPC) available at <https://sftool.gov/greenprocurement> provides a comprehensive list of sustainable products and services and sustainable acquisition guidance. The Contractor should review the GPC when determining which statutory purchasing programs apply to a specific product or service.

(End of Clause)

4.9 52.225-11 BUY AMERICAN—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (NOV 2023)

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

Caribbean Basin country construction material means a construction material that—

(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

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

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

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

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” at Federal Acquisition Regulation (FAR) 2.101;

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

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

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

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

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

Cost of components means—

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

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

Critical component means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR 25.105.

Critical item means a domestic construction material or domestic end product that is deemed critical to U.S. supply chain resiliency. The list of critical items is at FAR 25.105.

Designated country means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, North Macedonia, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

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

Domestic construction material means—

(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—

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

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

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

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

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

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

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

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

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

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

Least developed country construction material means a construction material that—

(1) Is wholly the growth, product, or manufacture of a least developed country; or

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

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

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

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

WTO GPA country construction material means a construction material that—

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

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

(b) Construction materials.

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the domestic content test of the Buy American statute is waived for construction material that is a COTS item, except that for construction material that consists wholly or predominantly of iron or steel or a combination of both, the domestic content test is applied only to the iron and steel content of the construction material, excluding COTS fasteners. (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

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

(3) The requirement in paragraph (b)(2) of this clause does not apply to information technology that is a commercial product or to the construction materials or components listed by the Government as follows:

NONE

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

(i) The cost of domestic construction material would be unreasonable.

(A) *For domestic construction material that is not a critical item or does not contain critical components.* (1) The cost of a particular domestic construction material subject to the restrictions of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;

(2) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(A)(1) of this clause.

(3) The procedures in paragraph (b)(4)(i)(A)(2) of this clause will no longer apply as of January 1, 2030.

(B) *For domestic construction material that is a critical item or contains critical components.* (1) The cost of a particular domestic construction material that is a critical item or contains critical components, subject to the requirements of the Buy American statute, is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent plus the additional preference factor identified for the critical item or construction material containing critical components listed at FAR 25.105.

(2) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined

to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer, and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(B)(1) of this clause.

(3) The procedures in paragraph (b)(4)(i)(B)(2) of this clause will no longer apply as of January 1, 2030.

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

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

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

(1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

(2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate

consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

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

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

Foreign and Domestic Construction Materials Price Comparison

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

[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)

4.10 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 employers 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)

4.11 52.228-11 INDIVIDUAL SURETY—PLEDGE OF ASSETS (FEB 2021)(DEVIATION APR 2020)

(a) The Contractor shall obtain from each person acting as an individual surety on a performance bond or a payment bond—

(1) A pledge of assets that meets the eligibility, valuation, and security requirements described in the Federal Acquisition Regulation (FAR) 28.203–1; and

(2) Standard Form 28, Affidavit of Individual Surety, **except that the words “being duly sworn, depose and say” on the Standard Form 28 are replaced with the word “affirm” and the Standard Form 28 is not required to be sworn and notarized in block 12.**

(b) The Contracting Officer may release a portion of the security interest on the individual surety’s assets based upon substantial performance of the Contractor’s obligations under its performance bond. The security interest in support of a performance bond shall be maintained—

(1) *Contracts for the construction, alteration, or repair of any public building or public work of the Federal Government exceeding \$150,000 (40 U.S.C. 3131).* Until completion of any warranty period, or for 1 year following final payment, whichever is later.

(2) *Contracts subject to alternative payment protection (see FAR 28.102–1(b)(1)).* For the full contract performance period plus 1 year.

(3) *Other contracts not subject to the requirements of paragraph (b)(1) of this clause.* Until completion of any warranty period, or for 90 days following final payment, whichever is later.

(c) A surety’s assets pledged in support of a payment bond may be released to a subcontractor or supplier upon Government receipt of a Federal district court judgment, or a sworn statement by the subcontractor or supplier that the claim is correct along with a notarized authorization of the release by the surety stating that it approves of such release. The security interest on the individual surety’s assets in support of a payment bond shall be maintained—

(1) *Contracts for the construction, alteration, or repair of any public building or public work of the Federal Government exceeding \$150,000 which require performance and payment bonds (40 U.S.C. 3131).* For 1 year following final payment, or until resolution of all pending claims filed against the payment bond during the 1-year period following final payment, whichever is later.

(2) *Contracts subject to alternative payment protection (see FAR 28.102–1(b)(1)).* For the full contract performance period plus 1 year.

(3) *Other contracts not subject to the requirements of paragraph (c)(1) of this clause.* For 90 days following final payment.

(d) The Contracting Officer may allow the Contractor to substitute an individual surety, for a performance or payment bond, after contract award. The Contractor shall comply with the requirements of paragraph (a) of this clause within the timeframe established by the Contracting Officer.

(End of Clause)

4.12 52.228-15 PERFORMANCE AND PAYMENT BONDS—CONSTRUCTION (JUN 2020)(DEVIATION APR 2020)

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

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

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

(1) *Performance bonds* (Standard Form 25, **except that a seal is not required**). The penal amount of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(2) *Payment Bonds* (Standard Form 25-A, **except that a seal is not required**). The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(3) Additional bond protection.

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

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

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

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

Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the *Federal Register* or may be obtained from the:

U.S. Department of Treasury
Financial Management Service
Surety Bond Branch
3700 East West Highway, Room 6F01
Hyattsville, MD 20782.
Or via the internet at <http://www.fms.treas.gov/c570/>.

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

(End of Clause)

4.13 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (FEB 2013)

(a) As used in this clause—

"After-imposed Federal tax," means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-relieved Federal tax," means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

"All applicable Federal, State, and local taxes and duties," means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

"Contract date," means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

Local taxes includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b)(1) The contract price includes all applicable Federal, State, and local taxes and duties, except as provided in subparagraph (b)(2)(i) of this clause.

(2) Taxes imposed under 26 U.S.C. 5000C may not be—

(i) Included in the contract price; nor

(ii) Reimbursed.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

(End of Clause)

SPECIAL NOTES REGARDING FAR 52.229-3: FEDERAL, STATE AND LOCAL TAXES:

Offerors are hereby notified that all state and local sales or use taxes for construction materials must be included in their bid or proposal price. It is solely the responsibility of the offeror to include all other applicable taxes in their bid or proposal price as well. The Government has determined that for this acquisition it cannot take advantage of any sales or use tax exemptions that may be available to it under applicable state law. Under no circumstances will any Contractor be designated as an agent of the Government for purposes of any tax exemption, nor will the Government authorize any Contractor's use of any tax exemption directly applicable to the Government under this procurement.

4.14 52.244-6DEV SUBCONTRACTS FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (JAN 2025) (DEVIATION FEB 2025)

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

Commercial product, commercial service, and commercially available off the-shelf item have the meanings contained in Federal Acquisition Regulation (FAR) 2.101.

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

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

(c)(1) The Contractor shall insert the following clauses in subcontracts for commercial products or commercial services:

(i) 52.203–13, Contractor Code of Business Ethics and Conduct (NOV 2021) (41 U.S.C. 3509), if the subcontract exceeds the threshold specified in FAR 3.1004(a) on the date of subcontract award, and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

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

(iii) 52.203–17, Contractor Employee Whistleblower Rights (NOV 2023) (41 U.S.C. 4712); this clause does not apply to contracts of DoD, NASA, the Coast Guard, or applicable elements of the intelligence community—see FAR 3.900(a).

(iv) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017).

(v) 52.204-21, Basic Safeguarding of Covered Contractor Information Systems (NOV 2021), other than subcontracts for commercially available off-the-shelf items, if flow down is required in accordance with paragraph (c) of FAR clause 52.204-21.

(vi) 52.204–23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (DEC 2023) (Section 1634 of Pub. L. 115–91).

(vii) 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1)(A) of Pub. L. 115–232).

(viii) 52.204–27, Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117–328).

(ix)(A) 52.204–30, Federal Acquisition Supply Chain Security Act Orders— Prohibition. (DEC 2023) (Pub. L. 115–390, title II).

(B) Alternate I (DEC 2023) of 52.204–30.

(x) 52.219–8, Utilization of Small Business Concerns (JAN 2025) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

(xi) [Reserved]

(xii) [Reserved]

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

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

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

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

(xvii)(A) 52.222-50, Combating Trafficking in Persons (NOV 2021) (22 U.S.C. chapter 78 and E.O. 13627).

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

(xviii) 52.222-55, Minimum Wages for Contractor Workers under Executive Order 14026 (JAN 2022), if flow down is required in accordance with paragraph (k) of FAR clause 52.222-55.

(xix) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706), if flow down is required in accordance with paragraph (m) of FAR clause 52.222-62.

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

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

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

(xxii) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (MAR 2023), if flow down is required in accordance with paragraph (c) of FAR clause 52.232-40.

(xxiii) 52.240-1, Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act—Covered Foreign Entities (NOV 2024) (Sections 1821–1826, Pub. L. 118–31, 41 U.S.C.3901 note prec.).

(xxiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) (46 U.S.C. 55305 and 10 U.S.C. 2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.

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

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

(End of Clause)

4.15 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (NOV 2020)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any VAAR (48 CFR Chapter 8) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of Clause)

4.16 MANDATORY WRITTEN DISCLOSURES

Mandatory written disclosures required by FAR clause 52.203-13 to the Department of Veterans Affairs, Office of Inspector General (OIG) must be made electronically through the VA OIG Hotline at <https://www.vaogig.gov/hotline/online-forms> and clicking on "FAR clause 52.203-13 Reporting." If you experience difficulty accessing the website, call the Hotline at 1-800-488-8244 for further instructions.

4.17 VAAR 852.204-71 INFORMATION AND INFORMATION SYSTEMS SECURITY (FEB 2023)

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

Business Associate means an entity, including an individual (other than a member of the workforce of a covered entity), company, organization or another covered entity, as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, that performs or assists in the performance of a function or activity on behalf of the Veterans Health Administration (VHA) that involves the creating, receiving, maintaining, transmitting of, or having access to, protected health information (PHI). The term also includes a subcontractor of a business associate that creates, receives, maintains, or transmits PHI on behalf of the business associate.

Business Associate Agreement (BAA) means the agreement, as dictated by the Privacy Rule, between VHA and a business associate, which must be entered into in addition to the underlying contract for services and before any release of PHI can be made to the business associate, in order for the business associate to perform certain functions or activities on behalf of VHA.

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information whether automated or manual.

Information technology (see FAR [2.101](#)) also means Information and Communication Technology (ICT).

Information technology-related contracts means those contracts which include services (including support services), and related resources for information technology as defined in [802.101](#).

Privacy officer means the VA official with responsibility for implementing and oversight of privacy related policies and practices that impact a given VA acquisition.

Sensitive personal information means, with respect to an individual, any information about the individual maintained by VA, including but not limited to the following:

(1) Education, financial transactions, medical history, and criminal or employment history.

(2) Information that can be used to distinguish or trace the individual's identity, including but not limited to name, social security number, date and place of birth, mother's maiden name, or biometric records.

Security plan means a formal document that provides an overview of the security requirements for an information system or an information security program and describes the security controls in place or planned for meeting those requirements.

VA Information Security Rules of Behavior for Organizational Users (VA National Rules of Behavior) means a set of VA rules that describes the responsibilities and expected behavior of users of VA information or information systems.

VA sensitive information means all VA data, on any storage media or in any form or format, which requires protection due to the risk of harm that could result from inadvertent or deliberate disclosure, alteration, or destruction of the information and includes sensitive personal information. The term includes information where improper use or disclosure could adversely affect the ability of VA to accomplish its mission, proprietary information, records about individuals requiring protection under various confidentiality provisions such as the Privacy Act and the HIPAA Privacy Rule, and information that can be withheld under the Freedom of Information Act. Examples of VA sensitive information include the following: individually-identifiable medical, benefits, and personnel information; financial, budgetary, research, quality assurance, confidential commercial, critical infrastructure, investigatory, and law enforcement information; information that is confidential and privileged in litigation such as information protected by the deliberative process privilege, attorney work-product privilege, and the attorney-client privilege; and other information which, if released, could result in violation of law or harm or unfairness to any individual or group, or could adversely affect the national interest or the conduct of Federal programs.

(b) *General*. Contractors, subcontractors, their employees, third-parties, and business associates with access to VA information, information systems, or information technology (IT) or providing and accessing IT-related goods and services, shall adhere to [VA Directive 6500](#), VA Cybersecurity Program, and the directives and handbooks in the VA 6500 series related to VA information (including VA sensitive information and sensitive personal information and information systems security and privacy), as well as those set forth in the contract specifications, statement of work, or performance work statement. These include, but are not limited to, [VA Handbook 6500.6](#), Contract Security; and VA [Directive](#) and [Handbook](#) 0710, *Personnel Security and Suitability Program*, which establishes VA's procedures, responsibilities, and processes for complying with current Federal law, Executive Orders, policies, regulations, standards and guidance for protecting VA information, information systems (see [802.101](#), Definitions) security and privacy, and adhering to personnel security requirements when accessing VA information or information systems.

(c) *Access to VA information and VA information systems*. (1) Contractors are limited in their request for logical or physical access to VA information or VA information systems for their

employees, subcontractors, third parties and business associates to the extent necessary to perform the services or provide the goods as specified in the contracts, agreements, task, delivery or purchase orders.

(2) All Contractors, subcontractors, third parties, and business associates working with VA information are subject to the same investigative requirements as those of VA appointees or employees who have access to the same types of information. The level and process of background security investigations for contractors to access VA information and VA information systems shall be in accordance with VA [Directive](#) and [Handbook](#) 0710, *Personnel Security and Suitability Program*.

(3) Contractors, subcontractors, third parties, and business associates who require access to national security programs must have a valid security clearance.

(4) HIPAA Business Associate Agreement requirement. Contractors shall enter into a Business Associate Agreement (BAA) with VHA, VA's Covered Entity, when contract requirements and access to protected health information is required and when requested by the Contracting Officer, or the Contracting Officer's Representative (COR) (see VAAR [824.103-70](#)). Under the HIPAA Privacy and Security Rules, a Covered Entity (VHA) must have a satisfactory assurance that its PHI will be safeguarded from misuse. To do so, a Covered Entity enters into a BAA with a contractor (now the business associate), which obligates the business associate to only use the Covered Entity's PHI for the purposes for which it was engaged, provide the same protections and safeguards as is required from the Covered Entity, and agree to the same disclosure restrictions to PHI that is required of the Covered Entity in situations where a contractor—

(i) Creates, receives, maintains, or transmits VHA PHI or that will store, generate, access, exchange, process, or utilize such PHI in order to perform certain health care operations activities or functions on behalf of the Covered Entity; or

(ii) Provides one or more of the services specified in the Privacy Rule to or for the Covered Entity.

(A) *Contractors or entities required to execute BAAs for contracts and other agreements become VHA business associates.* BAAs are issued by VHA or may be issued by other VA programs in support of VHA. The HIPAA Privacy Rule requires VHA to execute compliant BAAs with persons or entities that create, receive, maintain, or transmit VHA PHI or that will store, generate, access, exchange, process, or utilize such PHI in order to perform certain activities, functions or services to, for, or on behalf of VHA. There may be other VA components or staff offices which also provide certain services and support to VHA and must receive PHI in order to do so. If these components award contracts or enter into other agreements, purchase/delivery orders, modifications and issue governmentwide purchase card transactions to help in the delivery of these services to VHA, they will also fall within the requirement to obtain a satisfactory assurance from these contractors by executing a BAA.

(B) *BAA requirement flow down to subcontractors.* A prime Contractor required to execute a BAA shall also obtain a satisfactory assurance, in the form of a BAA, that any of its subcontractors who will also create, receive, maintain, or transmit VHA PHI or that will store, generate, access, exchange, process, or utilize such PHI will comply with HIPAA requirements to the same degree as the Contractor. Contractors employing a subcontractor who creates, receives, maintains, or transmits VHA PHI or that will store, generate, access, exchange, process, or utilize such VHA PHI under a contract or agreement is required to execute a BAA with each of its subcontractors which also obligates the subcontractor (i.e., also a business

associate) to provide the same protections and safeguards and agree to the same disclosure restrictions to VHA's PHI that is required of the Covered Entity and the prime Contractor.

(d) *Contractor operations required to be in United States.* Custom software development and outsourced operations must be located in the U.S. to the maximum extent practicable. If such services are proposed to be performed outside the continental United States, and are not otherwise disallowed by other Federal law, regulations or policy, or other VA policy or other mandates as stated in the contract, specifications, statement of work or performance work statement (including applicable Business Associate Agreements), the Contractor/subcontractor must state in its proposal where all non-U.S. services are provided. At a minimum, the Contractor/subcontractor must include a detailed Information Technology Security Plan, for review and approval by the Contracting Officer, specifically to address mitigation of the resulting problems of communication, control, and data protection.

(e) *Contractor/subcontractor employee reassignment and termination notification.* Contractors and subcontractors shall provide written notification to the Contracting Officer and Contracting Officer's Representative (COR) immediately, and not later than four (4) hours, when an employee working on a VA information system or with access to VA information is reassigned or leaves the Contractor or subcontractor's employment on the cognizant VA contract. The Contracting Officer and COR must also be notified immediately by the Contractor or subcontractor prior to an unfriendly termination.

(f) *VA information custodial requirements. (1) Release, publication, and use of data.* Information made available to a Contractor or subcontractor by VA for the performance or administration of a contract or information developed by the Contractor/subcontractor in performance or administration of a contract shall be used only for the stated contract purpose and shall not be used in any other way without VA's prior written approval. This clause expressly limits the Contractor's/subcontractor's rights to use data as described in Rights in Data—General, FAR [52.227-14\(d\)](#).

(2) *Media sanitization.* VA information shall not be co-mingled with any other data on the Contractors/subcontractor's information systems or media storage systems in order to ensure federal and VA requirements related to data protection, information segregation, classification requirements, and media sanitization can be met (see [VA Directive 6500](#), VA Cybersecurity Program). VA reserves the right to conduct scheduled or unscheduled on-site inspections, assessments, or audits of Contractor and subcontractor IT resources, information systems and assets to ensure data security and privacy controls, separation of data and job duties, and destruction/media sanitization procedures are in compliance with Federal and VA requirements. The Contractor and subcontractor will provide all necessary access and support to VA and/or GAO staff during periodic control assessments or audits.

(3) *Data retention, destruction, and contractor self-certification.* The Contractor and its subcontractors are responsible for collecting and destroying any VA data provided, created, or stored under the terms of this contract, to a point where VA data or materials are no longer readable or reconstructable to any degree, in accordance with [VA Directive 6371](#), Destruction of Temporary Paper Records, or subsequent issue. Prior to termination or completion of this contract, the Contractor/subcontractor must provide its plan for destruction of all VA data in its possession according to [VA Directive 6500](#), and VA Cybersecurity Program, including compliance with National Institute of Standards and Technology (NIST) 800-88, Guidelines for Media Sanitization, for the purposes of media sanitization on all IT equipment. The Contractor must certify in writing to the Contracting Officer within 30 days of termination of the contract that the data destruction requirements in this paragraph have been met.

(4) *Return of VA data and information.* When information, data, documentary material, records and/or equipment is no longer required, it shall be returned to the VA (as stipulated by the Contracting Officer or the COR) or the Contractor/subcontractor must hold it until otherwise directed. Items returned will be hand carried, securely mailed, emailed, or securely electronically transmitted to the Contracting Officer or to the address as provided in the contract or by the assigned COR, and/or accompanying BAA. Depending on the method of return, Contractor/subcontractor must store, transport, or transmit VA sensitive information, when permitted by the contract using VA-approved encryption tools that are, at a minimum, validated under Federal Information Processing Standards (FIPS) 140-3 (or its successor). If mailed, Contractor/subcontractor must send via a trackable method (USPS, UPS, Federal Express, etc.) and immediately provide the Contracting Officer with the tracking information. No information, data, documentary material, records or equipment will be destroyed unless done in accordance with the terms of this contract and the VHA Records Control Schedule 10-1.

(5) *Use of VA data and information.* The Contractor/subcontractor must receive, gather, store, back up, maintain, use, disclose and dispose of VA information only in compliance with the terms of the contract and applicable Federal and VA information confidentiality and security laws, regulations and policies. If Federal or VA information confidentiality and security laws, regulations and policies become applicable to the VA information or information systems after execution of the contract, or if the National NIST issues or updates applicable FIPS or Special Publications (SP) after execution of this contract, the parties agree to negotiate in good faith to implement the information confidentiality and security laws, regulations and policies for this contract as a result of any updates, if required.

(6) *Copying VA data or information.* The Contractor/subcontractor shall not make copies of VA information except as authorized and necessary to perform the terms of the contract or to preserve electronic information stored on Contractor/subcontractor electronic storage media for restoration in case any electronic equipment or data used by the Contractor/subcontractor needs to be restored to an operating state. If copies are made for restoration purposes, after the restoration is complete, the copies must be appropriately destroyed.

(7) *Violation of information custodial requirements.* If VA determines that the Contractor has violated any of VA's information confidentiality, privacy, or security provisions, it shall be sufficient grounds for VA to withhold payment to the Contractor or third-party or terminate the contract for default in accordance with FAR part [49](#) or terminate for cause in accordance with FAR [12.403](#).

(8) *Encryption.* The Contractor/subcontractor must store, transport, or transmit VA sensitive information, when permitted by the contract, using cryptography, and VA-approved encryption tools that are, at a minimum, validated under FIPS 140-3 (or its successor).

(9) *Firewall and web services security controls.* The Contractor/subcontractor's firewall and web services security controls, if applicable, shall meet or exceed VA's minimum requirements. VA Configuration Guidelines are available upon request.

(10) *Disclosure of VA data and information.* Except for uses and disclosures of VA information authorized in a cognizant contract for performance of the contract, the Contractor/subcontractor may use and disclose VA information only in two other situations: (i) subject to paragraph (f)(10) of this section, in response to a court order from a court of competent jurisdiction, or (ii) with VA's prior written approval. The Contractor/subcontractor must refer all requests for, demands for production of, or inquiries about, VA information and information systems to the Contracting Officer for response. If the Contractor/subcontractor is in receipt of a court order or other request or believes it has a legal requirement to disclose VA information, that Contractor/subcontractor shall immediately refer such court order or other

request to the Contracting Officer for response. If the Contractor or subcontractor discloses information on behalf of VHA, the Contractor and/or subcontractor must maintain an accounting of disclosures. Accounting of Disclosures documentation maintained by the Contractor/subcontractor will include the name of the individual to whom the information pertains, the date of each disclosure, the nature or description of the information disclosed, a brief statement of the purpose of each disclosure or, in lieu of such statement, a copy of a written request for a disclosure, and the name and address of the person or agency to whom the disclosure was made. The Contractor/subcontractor will provide its Accounting of Disclosures upon request and within 15 calendar days to the assigned COR and Privacy Officer. Accounting of disclosures should be provided electronically via encrypted email to the COR and designated VA facility Privacy Officer as provided in the contract, BAA, or by the Contracting Officer. If providing the Accounting of Disclosures electronically cannot be done securely, the Contractor/subcontractor will provide copies via trackable methods (UPS, USPS, Federal Express, etc.) immediately, providing the designated COR and Privacy Officer with the tracking information.

(11) *Compliance with privacy statutes and applicable regulations.* The Contractor/subcontractor shall not disclose VA information protected by any of VA's privacy statutes or applicable regulations including but not limited to: the Privacy Act of 1974, [38 U.S.C. 5701](#), confidential nature of claims, [38 U.S.C. 5705](#), confidentiality of medical quality assurance records and/or [38 U.S.C. 7332](#), confidentiality of certain health records pertaining to drug addiction, sickle cell anemia, alcoholism or alcohol abuse, or infection with human immunodeficiency virus or the HIPAA Privacy Rule. If the Contractor/subcontractor is in receipt of a court order or other requests for VA information or has questions if it can disclose information protected under the above-mentioned confidentiality statutes because it is required by law, that Contractor/subcontractor shall immediately refer such court order or other request to the Contracting Officer for response.

(g) *Report of known or suspected security/privacy incident.* The Contractor, subcontractor, third-party affiliate or business associate, and its employees shall notify VA immediately via the Contracting Officer and the COR or within one (1) hour of an incident which is an occurrence (including the discovery or disclosure of successful exploits of system vulnerability) that (A) actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or the availability of its data and operations, or of its information or information system(s); or (B) constitutes a violation or imminent threat of violation of law, security policies, security procedures, or acceptable use policies. The initial notification may first be made verbally but must be followed up in writing within one (1) hour. See VA Data Breach Response Service at https://www.oprm.va.gov/dbrs/about_dbrs.aspx. Report all actual or suspected security/privacy incidents and report the information to the Contracting Officer and the COR as identified in the contract or as directed in the contract, within one hour of discovery or suspicion.

(1) Such issues shall be remediated as quickly as is practical, but in no event longer than 1 day. The Contractor shall notify the Contracting Officer in writing.

(2) When the security fixes involve installing third party patched (e.g., Microsoft OS patches or Adobe Acrobat), the Contractor will provide written notice to VA that the patch has been validated as not affecting the systems within 10 working days. When the Contractor is responsible for operations or maintenance of the systems, they shall apply the security fixes within 10 days.

(3) All other vulnerabilities shall be remediated in a timely manner based on risk, but within 60 days of discovery or disclosure. Contractors shall notify the Contracting Officer, and COR within 2 business days after remediation of the identified vulnerability. Exceptions to this paragraph (e.g., for the convenience of VA) must be requested by the Contractor through the

COR and shall only be granted with approval of the Contracting Officer and the VA Assistant Secretary for Office of Information and Technology. These exceptions will be tracked by the Contractor in concert with the Government in accordance with [VA Directive 6500](#) and related VA Handbooks.

(h) *Security and privacy incident investigation.* (1) The term “privacy incident” means the unauthorized disclosure or use of VA information protected under a confidentiality statute or regulation.

(2) The term "security incident" means an occurrence that (A) actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information systems; or (B) constitutes a violation or imminent threat of violation of law, security policies, security procedures, or acceptable policies. The Contractor/ subcontractor shall immediately notify the Contracting Officer and COR for the contract of any known or suspected security or privacy incident, or any other unauthorized disclosure of sensitive information, including that contained in system(s) to which the Contractor/subcontractor has access.

(3) To the extent known by the Contractor/subcontractor, the Contractor/ subcontractor's notice to VA shall identify the information involved, the circumstances surrounding the incident (including to whom, how, when, and where the VA information or assets were placed at risk or compromised), and any other information that the Contractor/subcontractor considers relevant.

(4) With respect to unsecured PHI, the Business Associate is deemed to have discovered a security incident as defined above when the Business Associate either knew, or by exercising reasonable diligence should have been known to an employee of the Business Associate. Upon discovery, the Business Associate must notify VHA of the security incident immediately within one hour of discovery or suspicion as agreed to in the BAA.

(5) In instances of theft or break-in or other criminal activity, the Contractor/subcontractor must concurrently report the incident to the appropriate law enforcement entity (or entities) of jurisdiction, including the VA OIG and the VA Office of Security and Law Enforcement. The Contractor, its employees, and its subcontractors and their employees shall cooperate with VA and any law enforcement authority responsible for the investigation and prosecution of any possible criminal law violation(s) associated with any incident. The Contractor/subcontractor shall cooperate with VA in any civil litigation to recover VA information, obtain monetary or other compensation from a third party for damages arising from any incident, or obtain injunctive relief against any third party arising from, or related to, the incident.

(i) *Data breach notification requirements.* (1) This contract may require access to sensitive personal information. If so, the Contractor is liable to VA for liquidated damages in the event of a data breach involving any VA sensitive personal information the Contractor/Subcontractor processes or maintains under the contract as set forth in clause [852.211-76](#), Liquidated Damages—Reimbursement for Data Breach Costs.

(2) The Contractor/subcontractor shall provide notice to VA of a privacy or security incident as set forth in the Security and Privacy Incident Investigation section of this clause. The term 'data breach' means the loss, theft, or other unauthorized access, or any access other than that incidental to the scope of employment, to data containing sensitive personal information, in electronic or printed form, that results in the potential compromise of the confidentiality or integrity of the data. The Contractor shall fully cooperate with VA or third-party entity performing an independent risk analysis on behalf of VA. Failure to cooperate may be deemed a material breach and grounds for contract termination.

(3) The Contractor/subcontractor shall fully cooperate with VA or any Government agency conducting an analysis regarding any notice of a data breach or potential data breach or security incident which may require the Contractor to provide information to the Government or third-party performing a risk analysis for VA, and shall address all relevant information concerning the data breach, including the following:

- (i) Nature of the event (loss, theft, unauthorized access).
- (ii) Description of the event, including—
 - (A) Date of occurrence;
 - (B) Date of incident detection;
 - (C) Data elements involved, including any PII, such as full name, social security number, date of birth, home address, account number, disability code.
 - (D) Number of individuals affected or potentially affected.
 - (E) Names of individuals or groups affected or potentially affected.
 - (F) Ease of logical data access to the lost, stolen or improperly accessed data in light of the degree of protection for the data, e.g., unencrypted, plain text.
 - (G) Amount of time the data has been out of VA control.
 - (H) The likelihood that the sensitive personal information will or has been compromised (made accessible to and usable by unauthorized persons).
 - (I) Known misuses of data containing sensitive personal information, if any.
 - (J) Assessment of the potential harm to the affected individuals.
 - (K) Data breach analysis as outlined in [6500.2](#) Handbook, Management of Breaches Involving Sensitive Personal Information, as appropriate.
 - (L) Whether credit protection services may assist record subjects in avoiding or mitigating the results of identity theft based on the sensitive personal information that may have been compromised.
 - (M) Steps taken in response to mitigate or prevent a repetition of the incident.
- (j) *Training.* (1) All Contractor employees and subcontractor employees requiring access to VA information or VA information systems shall complete the following before being granted access to VA information and its systems:
 - (i) On an annual basis, successfully complete the VA Privacy and Information Security Awareness and VA Information Security Rules of Behavior training.
 - (ii) On an annual basis, sign and acknowledge (either manually or electronically) understanding of and responsibilities for compliance with the VA Information Security Rules of Behavior for Organizational Users, relating to access to VA information and information

systems.

(iii) Successfully complete any additional cyber security or privacy training, as required for VA personnel with equivalent information system access.

(2) The Contractor shall provide to the Contracting Officer and/or the COR a copy of the training certificates and affirmation that VA Information Security Rules of Behavior for Organizational Users signed by each applicable employee have been completed and submitted within five (5) days of the initiation of the contract and annually thereafter, as required.

(3) Failure to complete the mandatory annual training and acknowledgement of the VA Information Security Rules of Behavior, within the timeframe required, is grounds for suspension or termination of all physical or electronic access privileges and removal from work on the contract until such time as the training and documents are complete.

(k) *Subcontract flow down.* The Contractor shall include the substance of this clause, including this paragraph (k), in subcontracts, third-party agreements, and BAAs, of any amount and in which subcontractor employees, third-party servicers/employees, and business associates will perform functions where they will have access to VA information (including VA sensitive information, *i.e.*, sensitive personal information and protected health information), information systems, information technology (IT) or providing and accessing information technology-related contract services, support services, and related resources (see VAAR [802.101](#) definition of information technology-related contracts).

(End of Clause)

4.18 VAAR 852.219-73 VA NOTICE OF TOTAL SET-ASIDE FOR CERTIFIED SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES (JAN 2023) (DEVIATION)

(a) *Definition.* for the Department of Veterans Affairs, “*Service-disabled Veteran-owned small business concern or SDVOSB*”:

(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 certified for ownership and control pursuant to 38 U.S.C. 8127, 13 CFR 128, and is listed as certified in the SBA certification database at <https://veterans.certify.sba.gov/>; and

(v) The business agrees to comply with VAAR subpart 819.70 and Small Business Administration (SBA) regulations regarding small business size, government contracting, and the Veteran Small Business Certification Program at 13 CFR parts 121, 125, and 128.

(2) The term “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).

(3) The term “small business concern” has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

(4) The term “small business concern owned and controlled by Veterans with service-connected disabilities” has the meaning given the term “*small business concern owned and controlled by service-disabled veterans*” under section 3(q)(2) of the Small Business Act (15 U.S.C. 632(q)(2)).

(5) The term “*SDVOSB participant*” or *certified SDVOSB* means a small business that has been certified in the SBA Veteran Small Business Certification Program and listed in the SBA certification database (see 13 CFR 128.102).

(b) *General*. In order for a concern to submit an offer and be eligible for the award of an SDVOSB set-aside or sole source contract, the concern must qualify as a small business concern under the size standard corresponding to the NAICS code assigned to the contract and be listed as an SDVOSB participant in the SBA certification database as set forth in 13 CFR 128.

(1) Offers received from entities that are not certified SDVOSBs and listed in the SBA certification database at the time of offer shall not be considered.

(2) Any award resulting from this solicitation shall be made to a certified SDVOSB listed in the SBA certification database who is eligible at the time of submission of offer(s) and at the time of award.

(3) The requirements in this clause apply to any contract, order or subcontract where the firm receives a benefit or preference from its designation as an SDVOSB, including set-asides, sole source awards, and evaluation preferences.

(c) *Representation*. Pursuant to 38 U.S.C. 8127(e), only certified SDVOSBs listed in the SBA certification database are considered eligible to receive award of a resulting contract. By submitting an offer, the prospective contractor represents that it is an eligible and certified SDVOSB as defined in this clause, 13 CFR 121, 125, and 128, and VAAR subpart 819.70.

(d) *Agreement/LOS certification*. When awarded a contract action, including orders under multiple award contracts, an SDVOSB agrees that in the performance of the contract, the SDVOSB shall comply with requirements in VAAR subpart 819.70 and SBA regulations on small business size, and government contracting programs at 13 CFR part 121 and part 125, including the non-manufacturer rule and limitations on subcontracting (LOS) requirements in 13 CFR 121.406(b) and 13 CFR 125.6. For the purpose of limitations on subcontracting, only certified SDVOSBs listed in the SBA certification database (including independent contractors) shall be considered eligible and/or “similarly situated” (i.e., a firm that has the same small business program status as the prime contractor). An otherwise eligible firm further agrees to

comply with the required LOS certification requirements in this solicitation (see 852.219–75 or 852.219–76 as applicable). These requirements are summarized as follows:

(1) *Services*. In the case of a contract for services (except construction), the SDVOSB prime contractor will not pay more than 50% of the amount paid by the government to the prime for contract performance to firms that are not certified SDVOSBs listed in the SBA certification database (excluding direct costs to the extent they are not the principal purpose of the acquisition and the SDVOSB/ VOSB does not provide the service, such as airline travel, cloud computing services, or mass media purchases). When a contract includes both services and supplies, the 50 percent limitation shall apply only to the service portion of the contract.

(2) *Supplies/products*.

(i) In the case of a contract for supplies or products (other than from a non-manufacturer of such supplies), the SDVOSB prime contractor will not pay more than 50% of the amount paid by the government to the prime for contract performance, excluding the cost of materials, to firms that are not certified SDVOSBs listed in the SBA certification database. When a contract includes both supply and services, the 50 percent limitation shall apply only to the supply portion of the contract.

(ii) In the case of a contract for supplies from a non-manufacturer, the SDVOSB prime contractor will supply the product of a domestic small business manufacturer or processor, unless a waiver as described in 13 CFR 121.406(b)(5) has been granted. Refer to 13 CFR 125.6(a)(2)(ii) for guidance pertaining to multiple item procurements.

(3) *General construction*. In the case of a contract for general construction, the SDVOSB prime contractor will not pay more than 85% of the amount paid by the government to the prime for contract performance, excluding the cost of materials, to firms that are not certified SDVOSBs listed in the SBA certification database.

(4) *Special trade construction contractors*. In the case of a contract for special trade contractors, no more than 75% of the amount paid by the government to the prime for contract performance, excluding the cost of materials, may be paid to firms that are not certified SDVOSBs listed in the SBA certification database.

(5) *Subcontracting*. An SDVOSB subcontractor must meet the NAICS size standard assigned by the prime contractor and be certified and listed in the SBA certification database to count as similarly situated. Any work that a first tier SDVOSB subcontractor further subcontracts will count towards the percent of subcontract amount that cannot be exceeded. For supply or construction contracts, the cost of materials is excluded and not considered to be subcontracted. When a contract includes both services and supplies, the 50 percent limitation shall apply only to the portion of the contract with the preponderance of the expenditure upon which the assigned NAICS is based. For information and more specific requirements, refer to 13 CFR 125.6.

(e) *Required limitations on subcontracting compliance measurement period*. An SDVOSB shall comply with the limitations on subcontracting as follows:

[X] By the end of the base term of the contract or order, and then by the end of each subsequent option period; or

[] By the end of the performance period for each order issued under the contract.

(f) *Joint ventures*. A joint venture may be considered eligible as an SDVOSB if the joint venture complies with the requirements in 13 CFR 128.402 and the managing joint venture partner makes the representations under paragraph (c) of this clause. A joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause will be performed by the aggregate of the joint venture participants.

(g) *Precedence*. The VA Veterans First Contracting Program, as defined in VAAR 802.101, subpart 819.70, and this clause, takes precedence over any inconsistencies between the requirements of the SBA Veteran Small Business Certification Program and the VA Veterans First Contracting Program.

(h) *Misrepresentation*. Pursuant to 38 U.S.C. 8127(g), any business concern, including all its principals, that is determined by VA to have willfully and intentionally misrepresented a company's SDVOSB status is subject to debarment from contracting with the Department for a period of not less than five years (see VAAR 809.406–2 Causes for Debarment).

(End of Clause)

4.19 VAAR 852.219-75 VA NOTICE OF LIMITATIONS ON SUBCONTRACTING—CERTIFICATE OF COMPLIANCE FOR SERVICES AND CONSTRUCTION (JAN 2023) (DEVIATION)

(a) Pursuant to 38 U.S.C. 8127(l)(2), the offeror certifies that—

(1) If awarded a contract (see FAR 2.101 definition), it will comply with the limitations on subcontracting requirement as provided in the solicitation and the resultant contract, as follows:

(i) [] *Services*. In the case of a contract for services (except construction), the contractor will not pay more than 50% of the amount paid by the government to it to firms that are not certified SDVOSBs listed in the SBA certification database as set forth in 852.219–73 or certified VOSBs listed in the SBA certification database as set forth in 852.219–74. Any work that a similarly situated certified SDVOSB/VOSB subcontractor further subcontracts will count towards the 50% subcontract amount that cannot be exceeded. Other direct costs may be excluded to the extent they are not the principal purpose of the acquisition and small business concerns do not provide the service as set forth in 13 CFR 125.6.

(ii) [X] *General construction*. In the case of a contract for general construction, the contractor will not pay more than 85% of the amount paid by the government to it to firms that are not certified SDVOSBs listed in the SBA certification database as set forth in 852.219–73 or certified VOSBs listed in the SBA certification database as set forth in 852.219–74. Any work that a similarly situated certified SDVOSB/VOSB subcontractor further subcontracts will count towards the 85% subcontract amount that cannot be exceeded. Cost of materials are excluded and not considered to be subcontracted.

(iii) ☐ *Special trade construction contractors.* In the case of a contract for special trade contractors, the contractor will not pay more than 75% of the amount paid by the government to it to firms that are not certified SDVOSBs listed in the SBA certification database as set forth in 852.219–73 or certified VOSBs listed in the SBA certification database as set forth in 852.219–74. Any work that a similarly situated certified SDVOSB/VOSB subcontractor further subcontracts will count towards the 75% subcontract amount that cannot be exceeded. Cost of materials are excluded and not considered to be subcontracted.

(2) The offeror acknowledges that this certification concerns a matter within the jurisdiction of an Agency of the United States. The offeror further acknowledges that this certification is subject to Title 18, United States Code, Section 1001, and, as such, a false, fictitious, or fraudulent certification may render the offeror subject to criminal, civil, or administrative penalties, including prosecution.

(3) If VA determines that an SDVOSB/ VOSB awarded a contract pursuant to 38 U.S.C. 8127 did not act in good faith, such SDVOSB/VOSB shall be subject to any or all of the following:

- (i) Referral to the VA Suspension and Debarment Committee;
- (ii) A fine under section 16(g)(1) of the Small Business Act (15 U.S.C. 645(g)(1)); and
- (iii) Prosecution for violating 18 U.S.C. 1001.

(b) The offeror represents and understands that by submission of its offer and award of a contract it may be required to provide copies of documents or records to VA that VA may review to determine whether the offeror complied with the limitations on subcontracting requirement specified in the contract. Contracting officers may, at their discretion, require the contractor to demonstrate its compliance with the limitations on subcontracting at any time during performance and upon completion of a contract if the information regarding such compliance is not already available to the contracting officer. Evidence of compliance includes, but is not limited to, invoices, copies of subcontracts, or a list of the value of tasks performed.

(c) The offeror further agrees to cooperate fully and make available any documents or records as may be required to enable VA to determine compliance with the limitations on subcontracting requirement. The offeror understands that failure to provide documents as requested by VA may result in remedial action as the Government deems appropriate.

(d) Offeror completed certification/fill-in required. The formal certification must be completed, signed and returned with the offeror's bid, quotation, or proposal. The Government will not consider offers for award from offerors that do not provide the certification, and all such responses will be deemed ineligible for evaluation and award.

Certification

I hereby certify that if awarded the contract, [insert name of offeror] will comply with the limitations on subcontracting specified in this clause and in the resultant contract. I further certify that I am authorized to execute this certification on behalf of [insert name of offeror].

Printed Name of Signee: _____

Printed Title of Signee: _____

Signature: _____

Date: _____

Company Name and Address: _____

(End of Clause)

4.20 VAAR 852.242-71 ADMINISTRATIVE CONTRACTING OFFICER (OCT 2020)

The Contracting Officer reserves the right to designate an Administrative Contracting Officer (ACO) for the purpose of performing certain tasks/duties in the administration of the contract. Such designation will be in writing through an ACO Letter of Delegation and will identify the responsibilities and limitations of the ACO. A copy of the ACO Letter of Delegation will be furnished to the Contractor.

(End of Clause)

4.21 VAAR 852.243-70 CONSTRUCTION CONTRACT CHANGES— SUPPLEMENT (SEP 2019)

The FAR clauses 52.236-2, Differing Site Conditions; 52.243-4, Changes; and 52.243-5, Changes and Changed Conditions, are supplemented as follows:

(a) Submission of request for equitable adjustment proposals. When directed by the Contracting Officer or requested by the Contractor, the Contractor shall, in accordance with FAR 15.403-5, submit proposals for changes in the work exceeding \$500,000 in writing to the Contracting Officer or Administrative Contracting Officer (ACO), and to the resident engineer.

(1) The Contractor must provide an itemized breakdown for changes exceeding the micro-purchase threshold (see FAR 2.101).

(2) The itemized breakdown shall include materials, quantities, unit prices, labor costs (separated into trades), construction equipment, etc. Labor costs shall be identified with specific material placed or operation performed.

(3) Proposals shall be submitted to the Contracting Officer or ACO and the resident engineer as expeditiously as possible, but not later than 30 calendar days, after receipt of a written change order by the Contracting Officer.

(4) Proposals shall be signed by each subcontractor participating in the change.

(5) The Contracting Officer will consider issuing a settlement by determination to the contract if the Contractor's proposal required by paragraph (a)(3) of this clause is not received within the time period specified in paragraph (a)(3), or if agreement has not been reached.

(b) Paragraphs (a)(1) through (5) of this clause and the following paragraphs (b)(1) and (2) apply to proposals for changes in the work \$500,000 or less:

(1) As a basis for negotiation, 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 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. This declining scale will also be used to negotiate the prime Contractor's or upper-tier subcontractor's fee when work is performed by lower-tier subcontractors (to a maximum of three tiers) and will be based on the net increased cost to the prime or upper-tier subcontractor, as applicable. Profit (fee) shall be computed by multiplying the profit percentage by the sum of the direct costs and computed overhead costs. Allowable percentages on changes will not exceed the following:

- (i) 10 percent overhead and/or 10 percent profit (fee) on the first \$20,000.
- (ii) 7.5 percent overhead and/or 7.5 percent profit (fee) on the next \$30,000.
- (iii) 5 percent overhead and/or 5 percent profit (fee) on a balance over \$50,000.

(2) The Contracting Officer will consider issuing a settlement by determination to the contract if the Contractor's proposal required by paragraph (3) is not received within 30 calendar days, or if agreement has not been reached.

(c)(1) 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. 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.

(2) 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 or subcontractors' portions of cost computed in accordance with this clause.

(3) 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 it 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.

(End of Clause)

4.22 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<https://www.acquisition.gov/browse/index/far>
<https://www.va.gov/oal/library/vaar/>

(End of Clause)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
52.202-1	DEFINITIONS	JUN 2020
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	MAY 2014
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	JUN 2020
52.203-7	ANTI-KICKBACK PROCEDURES	JUN 2020
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	MAY 2014
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	MAY 2014
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	JUN 2020
52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT	NOV 2021
52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS	NOV 2023
52.203-19	PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS	JAN 2017
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	JAN 2011
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS	JUN 2020
52.204-13	SYSTEM FOR AWARD MANAGEMENT MAINTENANCE	OCT 2018
52.204-14	SERVICE CONTRACT REPORTING REQUIREMENTS	OCT 2016
52.204-18	COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE	AUG 2020
52.204-19	INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS	DEC 2014
52.204-23	PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB COVERED ENTITIES	DEC 2023
52.204-25	PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT	NOV 2021
52.204-27	PROHIBITION ON A BYTEDANCE COVERED APPLICATION	JUN 2023
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, PROPOSED FOR DEBARMENT, OR VOLUNTARILY EXCLUDED	JAN 2025
52.209-9	UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS	OCT 2018
52.209-10	PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS	NOV 2015
52.210-1	MARKET RESEARCH	NOV 2021
52.215-2	AUDIT AND RECORDS—NEGOTIATION	JUN 2020
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	JAN 2025
52.222-3	CONVICT LABOR	JUN 2003

52.222-4	CONTRACT WORK HOURS AND SAFETY STANDARDS— OVERTIME COMPENSATION	MAY 2018
52.222-7	WITHHOLDING OF FUNDS	MAY 2014
52.222-8	PAYROLLS AND BASIC RECORDS	JUL 2021
52.222-10	COMPLIANCE WITH COPELAND ACT REQUIREMENTS	FEB 1988
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
52.222-35	EQUAL OPPORTUNITY FOR VETERANS	JUN 2020
52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES	JUN 2020
52.222-37	EMPLOYMENT REPORTS ON VETERANS	JUN 2020
52.222-40	NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT	DEC 2010
52.222-50	COMBATING TRAFFICKING IN PERSONS	NOV 2021
52.222-54	EMPLOYMENT ELIGIBILITY VERIFICATION	JAN 2025
52.223-3	HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA ALTERNATE I (JUL 1995)	FEB 2021
52.223-5	POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION	MAY 2024
52.223-20	AEROSOLS	MAY 2024
52.223-21	FOAMS	MAY 2024
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	FEB 2021
52.226-7	DRUG-FREE WORKPLACE	MAY 2024
52.226-8	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING	MAY 2024
52.227-1	AUTHORIZATION AND CONSENT	JUN 2020
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT	JUN 2020
52.227-4	PATENT INDEMNITY—CONSTRUCTION CONTRACTS	DEC 2007
52.228-2	ADDITIONAL BOND SECURITY	OCT 1997
52.228-5	INSURANCE—WORK ON A GOVERNMENT INSTALLATION	JAN 1997
52.228-12	PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS	DEC 2022
52.228-14	IRREVOCABLE LETTER OF CREDIT	NOV 2014
52.229-12	TAX ON CERTAIN FOREIGN PROCUREMENTS	FEB 2021
52.232-5	PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS	MAY 2014
52.232-17	INTEREST	MAY 2014
52.232-23	ASSIGNMENT OF CLAIMS	MAY 2014
52.232-27	PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS	JAN 2017
52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER— SYSTEM FOR AWARD MANAGEMENT	OCT 2018
52.232-39	UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS	JUN 2013
52.232-40	PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS	MAR 2023
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 II (APR 1984)	FEB 1997
52.236-26	PRECONSTRUCTION CONFERENCE	FEB 1995
52.240-1	PROHIBITION ON UNMANNED AIRCRAFT SYSTEMS MANUFACTURED OR ASSEMBLED BY AMERICAN SECURITY DRONE ACT—COVERED FOREIGN ENTITIES	NOV 2024
52.242-13	BANKRUPTCY	JUL 1995
52.242-14	SUSPENSION OF WORK	APR 1984
52.243-4	CHANGES	JUN 2007
52.245-9	USE AND CHARGES	APR 2012
52.246-12	INSPECTION OF CONSTRUCTION	AUG 1996
52.246-21	WARRANTY OF CONSTRUCTION	MAR 1994
52.248-3	VALUE ENGINEERING—CONSTRUCTION	OCT 2020
52.249-2	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
852.201-70	CONTRACTING OFFICER'S REPRESENTATIVE	DEC 2022
852.203-70	COMMERCIAL ADVERTISING	MAY 2018
852.204-70	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	MAY 2020
852.222-71	COMPLIANCE WITH EXECUTIVE ORDER 13899 (DEVIATION) (APR 2025)	APR 2025
852.223-71	SAFETY AND HEALTH	SEP 2019
852.228-71	INDEMNIFICATION AND INSURANCE	MAR 2018
852.228-72	ASSISTING SERVICE-DISABLED VETERAN-OWNED AND VETERAN-OWNED SMALL BUSINESSES IN OBTAINING BONDS	DEC 2009
852.232-71	PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (INCLUDING NAS— CPM) (NOV 2018)	NOV 2018
852.232-72	ELECTRONIC SUBMISSION OF PAYMENT REQUESTS	NOV 2018
852.236-71	SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION	APR 2019
852.236-79	CONTRACTOR PRODUCTION REPORT	APR 2019
852.236-80	SUBCONTRACTS AND WORK COORDINATION ALTERNATE I (APR 2019)	APR 2019

4.23 RECORDS MANAGEMENT LANGUAGE

1. Contractor shall comply with all applicable records management laws and regulations, as well as National Archives and Records Administration (NARA) records policies, including but not limited to the Federal Records Act (44 U.S.C. chs. 21, 29, 31, 33), NARA regulations at 36 CFR Chapter XII Subchapter B, and those policies associated with the safeguarding of records covered by the Privacy Act of 1974 (5 U.S.C. 552a). These policies include the preservation of all records, regardless of form or characteristics, mode of transmission, or state of completion.

2. In accordance with 36 CFR 1222.32, all data created for Government use and delivered to, or falling under the legal control of, the Government are Federal records subject to the provisions of 44 U.S.C. chapters 21, 29, 31, and 33, the Freedom of Information Act (FOIA) (5 U.S.C. 552), as amended, and the Privacy Act of 1974 (5 U.S.C. 552a), as amended and must be managed and scheduled for disposition only as permitted by statute or regulation.

3. In accordance with 36 CFR 1222.32, Contractor shall maintain all records created for Government use or created in the course of performing the contract and/or delivered to, or under the legal control of the Government and must be managed in accordance with Federal law. Electronic records and associated metadata must be accompanied by sufficient technical documentation to permit understanding and use of the records and data.

4. [VA Nebraska-Western Iowa Health Care System] and its contractors are responsible for preventing the alienation or unauthorized destruction of records, including all forms of mutilation. Records may not be removed from the legal custody of [VA Nebraska-Western Iowa Health Care System] or destroyed except for in accordance with the provisions of the agency records schedules and with the written concurrence of the Head of the Contracting Activity. Willful and unlawful destruction, damage or alienation of Federal records is subject to the fines and penalties imposed by 18 U.S.C. 2701.

In the event of any unlawful or accidental removal, defacing, alteration, or destruction of records, Contractor must report to [VA Nebraska-Western Iowa Health Care System]. The agency must report promptly to NARA in accordance with 36 CFR 1230.

5. The Contractor shall immediately notify the appropriate Contracting Officer upon discovery of any inadvertent or unauthorized disclosures of information, data, documentary materials, records or equipment. Disclosure of non-public information is limited to authorized personnel with a need-to-know as described in the [contract vehicle]. The Contractor shall ensure that the appropriate personnel, administrative, technical, and physical safeguards are established to ensure the security and confidentiality of this information, data, documentary material, records and/or equipment is properly protected. The Contractor shall not remove material from Government facilities or systems, or facilities or systems operated or maintained on the Government's behalf, without the express written permission of the Head of the Contracting Activity. When information, data, documentary material, records and/or equipment is no longer required, it shall be returned to [VA Nebraska-Western Iowa Health Care System] control or the Contractor must hold it until otherwise directed. Items returned to the Government shall be hand carried, mailed, emailed, or securely electronically transmitted to the Contracting Officer or address prescribed in the [contract vehicle]. Destruction of records is EXPRESSLY PROHIBITED unless in accordance with Paragraph (4).

6. The Contractor is required to obtain the Contracting Officer's approval prior to engaging in any contractual relationship (sub-contractor) in support of this contract requiring the disclosure of information, documentary material and/or records generated under, or relating to, contracts. The Contractor (and any sub-contractor) is required to abide by Government and [VA Nebraska-Western Iowa Health Care System] guidance for protecting sensitive, proprietary information, classified, and controlled unclassified information.

7. The Contractor shall only use Government IT equipment for purposes specifically tied to or authorized by the contract and in accordance with [VA Nebraska-Western Iowa Health Care System] policy.

8. The Contractor shall not create or maintain any records containing any non-public [VA Nebraska-Western Iowa Health Care System] information that are not specifically tied to or authorized by the contract.

9. The Contractor shall not retain, use, sell, or disseminate copies of any deliverable that contains information covered by the Privacy Act of 1974 or that which is generally protected from public disclosure by an exemption to the Freedom of Information Act.

10. The [VA Nebraska-Western Iowa Health Care System] owns the rights to all data and records produced as part of this contract. All deliverables under the contract are the property of the U.S. Government for which [VA Nebraska-Western Iowa Health Care System] shall have unlimited rights to use, dispose of, or disclose such data contained therein as it determines to be in the public interest. Any Contractor rights in the data or deliverables must be identified as required by FAR 52.227-11 through FAR 52.227-20.

11. Training. All Contractor employees assigned to this contract who create, work with, or otherwise handle records are required to take VHA-provided records management training. The Contractor is responsible for confirming training has been completed according to agency policies, including initial training and any annual or refresher training.

[Note: To the extent an agency requires contractors to complete records management training, the agency must provide the training to the contractor.]

Flowdown of requirements to Subcontractors

1. The Contractor shall incorporate the substance of this clause, its terms and requirements including this paragraph, in all subcontracts under this [contract vehicle], and require written subcontractor acknowledgment of same.

2. Violation by a subcontractor of any provision set forth in this clause will be attributed to the Contractor.

4.24 LIST OF ATTACHMENTS

See attached document: Attachment 01 - Vol 1 Combined Specs - FINAL.

See attached document: Attachment 02 - Vol 2 Combined Specs - FINAL.

See attached document: Attachment 03 - Set 1_G Series_Part1.

See attached document: Attachment 03 - Set 1_G Series_Part2.

See attached document: Attachment 03 - Set 1_G Series_Part3.

See attached document: Attachment 03 - Set 1_G Series_Part4.

See attached document: Attachment 04 - Set 2_Civil.

See attached document: Attachment 05 - Set 3_Arch1.

See attached document: Attachment 06 - Set 4_Arch2.

See attached document: Attachment 07 - Set 5_Arch3.

See attached document: Attachment 08 - Set 6_Arch4.

See attached document: Attachment 09 - Set 7_Equipment.

See attached document: Attachment 10 - Set 8_Structure.

See attached document: Attachment 11 - Set 9_Mech1.

See attached document: Attachment 12 - Set 10_Mech2.

See attached document: Attachment 13 - Set 11_Plumbing.

See attached document: Attachment 14 - Set 12_Electrical.

See attached document: Attachment 15 - Set 13_Fire Protect.

See attached document: Attachment 16 - VHA ICRA - 6-25-25.

See attached document: Attachment 17 - Project Information Sheet for Contractors.

See attached document: Attachment 18 - PPQ.

See attached document: Attachment 19 - Subcontractor Information and Consent Form.

See attached document: Attachment 20 - Limitations on Subcontracting - Construction.

See attached document: Attachment 21 - Site Visit Instructions - Construct SPS - Omaha.

See attached document: Attachment 22 - WD - NE20250057 Rev 4 - 5-16-25.

End of Document

636-502