

SOLICITATION, OFFER, AND AWARD (Construction, Alteration, or Repair)	1. SOLICITATION NUMBER <b>VA250-17-B-0288</b>	2. TYPE OF SOLICITATION <input checked="" type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 06-09-2017	PAGE OF PAGES 1 of 88
	IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.			

4. CONTRACT NUMBER	5. REQUISITION/PURCHASE REQUEST NUMBER <b>552-17-2-6932-0012</b>	6. PROJECT NUMBER <b>552-15-102</b>
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7. ISSUED BY Department of Veterans Affairs Network Contracting Office (NCO) 10 Service Area Office (SAO) Central 3140 Governor's Place Blvd. - Suite 210 Kettering OH 45409-1337	CODE 701AK/552	8. ADDRESS OFFER TO Department of Veterans Affairs ATTENTION: BID OFFER - VA250-17-B-0288 Network Contracting Office (NCO) 10 3140 Governor's Place Blvd. - Suite 210 Kettering OH 45409-1337
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9. FOR INFORMATION CALL:	a. NAME Bob Ivey	b. TELEPHONE NUMBER (Include area code) (NO COLLECT CALLS) (937) 268-651 Ext. 5402
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**SOLICITATION**

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

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

The contractor shall provide complete construction services to renovate spaces on the Second and Ninth Floors of Building 330, the Second Floor of Building 315, areas on the First and Second Floors of Building 310 adjacent to Building 307, and demolish Building 307. First phase of the project is to renovate existing spaces on the Ninth Floor of Building 330 for relocation of services out of the Second Floor of Building 330. Second phase is to renovate existing spaces on the Second Floor of Building 330 for the relocation of Prosthetics and Podiatry clinics, and existing spaces on the Second Floor of Building 315 for relocation of services out of Building 307. The third and final phase is to demolish Building 307 and the connecting corridor to Building 315.

Duration of the project WILL NOT exceed 600 calendar days from receipt of the Notice to Proceed (NTP).

All work shall be conducted in complete accordance with the Project Drawings, Specifications, & Terms of the Contract.

All work shall be coordinated with the VA Contracting Officer (CO) and Contracting Officer's Representative (COR).

This is a 100% Set-Aside for Service-Disabled Veteran-Owned Small Business (SDVOSB).

Bidders must be verified in the VIP database (<http://www.vip.vetbiz.gov/>) at the time of bid submission in order to be considered for award. Bids from unverified SDVOSBs will be considered non-responsive, and will be ineligible for award.

Award will only be made to an eligible SDVOSB firm in the VIP database at the time of award.

The NAICS Code for this project is 236220. The Business Size Standard is \$36.5 Million.

Project Magnitude is between \$5,000,000.00 and \$10,000,000.00.

See VAAR 852.219-10 Paragraph (C) for Contractor performance requirements for this NAICS code.

A site visit shall be conducted on June 20, 2017, at 1:00 P.M. (EST). See Page 8 and FAR 52.236-27 for more details.

Cut-off date and time to submit electronic Request for Information (RFIs) is June 30, 2017 @ 1:00 P.M. (Local Time).

Submit all RFIs to [Robert.Ivey@Va.Gov](mailto:Robert.Ivey@Va.Gov). No telephonic RFIs will be entertained / responded to.

On Page 2 of the SF1442 you shall insert your Cage Code Number, DUNS, and fill in your Base and Deduct Alternate Bid Price(s) in the appropriate blocks. Bidders are to enter pricing for all bid items.

NOTE: IF A CONTRACT IS NOT AWARDED IN FY 2017, AWARD IS SUBJECT TO AVAILABILITY OF 2018 FUNDS

This solicitation includes a requirement concerning safety compliance documentation to be submitted with your bid.

See "NOTICE - SAFETY COMPLIANCE REQUIREMENT", Failure to submit the required information or failure to meet the stated standard may cause your bid to be deemed non-responsive.

This solicitation includes specifications, drawings, wage determinations and other items by attachment (See list at end of this document). All attachments provided with the solicitation and any amendment(s) thereto are incorporated into the solicitation and any resulting contract.

NOTE: Site Visit and Place of Performance is the Dayton VAMC, 4100 W. Third Street, Dayton, OH 45428-9000. Bid Opening will be held at the Network Contracting Office (NCO) 10, Kettering, OH (Address in Block 8 above).

11. The Contractor shall begin performance within 10 calendar days and complete it within 600 calendar days after receiving  award,  notice to proceed. This performance period is  mandatory  negotiable. (See FAR 52.211-10).

12a. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES," indicate within how many calendar days after award in Item 12B.) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	12b. CALENDAR DAYS 10
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13. ADDITIONAL SOLICITATION REQUIREMENTS:

a. Sealed offers in original and One (1) copies to perform the work required are due at the place specified in Item 8 by 1:00 P.M. (hour) local time 07-13-2017 (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, the date and time offers are due.

b. An offer guarantee  is,  is not required.

c. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

d. Offers providing less than 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)	
CODE		16. REMITTANCE ADDRESS (Include only if different than Item 14.)	
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	Cage Code: _____	DUNS: _____
	BID ITEM 1 (BASE BID): \$ _____	
	BID ITEM 2 (DEDUCT ALT. 1): \$ _____	
	BID ITEM 3 (DEDUCT ALT. 2): \$ _____	
	BID ITEM 4 (DEDUCT ALT. 3): \$ _____	
	BID ITEM 5 (DEDUCT ALT. 4): \$ _____	

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
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**AWARD (To be completed by Government)**

21. ITEMS ACCEPTED:

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA
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24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO <input type="checkbox"/> 10 U.S.C. 2304(c)( ) <input type="checkbox"/> 41 U.S.C. 3304(a) ( )
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26. ADMINISTERED BY 701 AK/552 Department of Veterans Affairs Network Contracting Office (NCO) 10 Service Area Office (SAO) Central 3140 Governor's Place Blvd. - Suite 210 Kettering OH 45409-1337	27. PAYMENT WILL BE MADE BY Department of Veterans Affairs FMS-VA-2(101) Financial Services Center PO Box 149971 Austin TX 78714-9971 PHONE: 1-888-372-1145    FAX: 512-460-5429
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**CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE**

<input type="checkbox"/> 28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ 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.	<input checked="" type="checkbox"/> 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.
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30a. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)	31a. NAME OF CONTRACTING OFFICER (Type or print)		
30b. SIGNATURE	30c. DATE	31b. UNITED STATES OF AMERICA BY	31c. AWARD DATE

# Table of Contents

<b>PART I - THE SCHEDULE</b> .....	<b>1</b>
<b>SECTION A - SOLICITATION/CONTRACT FORM</b> .....	<b>1</b>
SF 1442 SOLICITATION, OFFER, AND AWARD (Construction, Alteration, or Repair).....	1
STATEMENT OF BID ITEMS.....	6
SITE VISIT INFORMATION.....	8
INFORMATION REGARDING BIDDING MATERIAL - BID GUARANTEE AND BONDS.....	9
NOTICE-SAFETY COMPLIANCE REQUIREMENT .....	10
NOTICE OF REQUIRED REGISTRATION WITH CONTRACTOR PERFORMANCE ASSESSMENT SYSTEM (CPARS).....	11
CONTRACT SECURITY.....	13
<b>INSTRUCTIONS, CONDITIONS AND OTHER STATEMENTS TO BIDDERS/OFFERORS</b> .....	<b>24</b>
2.1 FAR 52.204-7 SYSTEM FOR AWARD MANAGEMENT (OCT 2016) .....	24
2.2 FAR 52.204-22 ALTERNATIVE LINE ITEM PROPOSAL (JAN 2017).....	25
2.3 FAR 52.211-3 AVAILABILITY OF SPECIFICATIONS NOT LISTED IN THE GSA INDEX OF FEDERAL SPECIFICATIONS, STANDARDS AND COMMERCIAL ITEM DESCRIPTIONS (JUN 1988).....	256
2.4 FAR 52.211-4 AVAILABILITY FOR EXAMINATION OF SPECIFICATIONS NOT LISTED IN THE GSA INDEX OF FEDERAL SPECIFICATIONS, STANDARDS AND COMMERCIAL ITEM DESCRIPTIONS (JUN 1988) .....	26
2.5 FAR 52.216-1 TYPE OF CONTRACT (APR 1984) .....	26
2.6 FAR 52.222-5 CONSTRUCTION WAGE RATE REQUIREMENTS—SECONDARY SITE OF THE WORK (MAY 2014).....	26
2.7 FAR 52.222-23 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY FOR CONSTRUCTION (FEB 1999) .....	27
2.8 FAR 52.225-11 NOTICE OF BUY AMERICAN REQUIREMENT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (MAY 2014). 28	
2.9 FAR 52.225-12 NOTICE OF BUY AMERICAN REQUIREMENT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (MAY 2014). 32	
2.10 FAR 52.228-1 BID GUARANTEE (SEP 1996).....	34
2.11 FAR 52.233-2 SERVICE OF PROTEST (SEP 2006) .....	34
2.12 FAR 52.236-27 SITE VISIT (CONSTRUCTION) (FEB 1995) ALTERNATE I (FEB 1995) .....	35
2.13 FAR 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998).....	35
2.14 VAAR 852.211-72 TECHNICAL INDUSTRY STANDARDS (JAN 2008) ..	36

2.15	VAAR 852.214-70 CAUTION TO BIDDERS--BID ENVELOPES (JAN 2008)	362
2.16	VAAR 852.233-70 PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (JAN 2008)	37
2.17	VAAR 852.233-71 ALTERNATE PROTEST PROCEDURE (JAN 1998)	37
2.18	VAAR 852.270-1 REPRESENTATIVES OF CONTRACTING OFFICERS (JAN 2008)	38
	<b>REPRESENTATIONS AND CERTIFICATIONS</b>	<b>39</b>
3.1	FAR 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2017)	39
3.2	FAR 52.209-5 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION)(MAR 2012)	43
3.3	FAR 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)	44
	<b>GENERAL CONDITIONS</b>	<b>46</b>
4.1	FAR 52.203-19 PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (JAN 2017)	46
4.2	FAR 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016)	47
4.3	FAR 52.209-9 UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)	49
4.4	FAR 52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984) ALTERNATE I (APR 1984)	50
4.5	FAR 52.211-12 LIQUIDATED DAMAGES—CONSTRUCTION (SEPT 2000)	50
4.6	FAR 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)	50
4.7	FAR 52.223-9 ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA-DESIGNATED ITEMS (MAY 2008)	52
4.8	FAR 52.225-11 BUY AMERICAN—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (FEB 2016) ALTERNATE I (MAY 2014)	52
4.9	SUPPLEMENTAL INSURANCE REQUIREMENTS	58
4.10	FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)	58
4.11	VAAR 852.203-70 COMMERCIAL ADVERTISING (JAN 2008)	62
4.12	VAAR 852.203-71 DISPLAY OF DEPARTMENT OF VETERAN AFFAIRS HOTLINE POSTER (DEC 1992)	62
4.13	VAAR 852.211-73 BRAND NAME OR EQUAL (JAN 2008)	63
4.14	VAAR 852.211-74 LIQUIDATED DAMAGES (JAN 2008)	64
4.15	VAAR 852.219-10 VA NOTICE OF TOTAL SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (JUL 2016)(DEVIATION)	64

4.16	LIMITATIONS ON SUBCONTRACTING-- MONITORING AND COMPLIANCE (JUN 2011).....	65
4.17	VAAR 852.228-70 BOND PREMIUM ADJUSTMENT (JAN 2008) .....	66
4.18	VAAR 852.228-72 ASSISTING SERVICE-DISABLED VETERAN-OWNED AND VETERAN-OWNED SMALL BUSINESSES IN OBTAINING BONDS (DEC 2009) .....	66
4.19	VAAR 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012).....	66
4.20	VAAR 852.236-71 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (JUL 2002) .....	68
4.21	VAAR 852.236-74 INSPECTION OF CONSTRUCTION (JUL 2002) .....	68
4.22	VAAR 852.236-76 CORRESPONDENCE (APR 1984) .....	69
4.23	VAAR 852.236-77 REFERENCE TO "STANDARDS" (JUL 2002) .....	69
4.24	VAAR 852.236-78 GOVERNMENT SUPERVISION (APR 1984) .....	69
4.25	VAAR 852.236-79 DAILY REPORT OF WORKERS AND MATERIAL (APR 1984) .....	69
4.26	VAAR 852.236-80 SUBCONTRACTS AND WORK COORDINATION (APR 1984) .....	70
4.27	VAAR 852.236-82 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (WITHOUT NAS) (APR 1984) .....	70
4.28	VAAR 852.236-84 SCHEDULE OF WORK PROGRESS (NOV 1984) .....	73
4.29	ADDITIONAL REQUIREMENTS FOR BAR CHART SCHEDULE.....	74
4.30	VAAR 852.236-85 SUPPLEMENTARY LABOR STANDARDS PROVISIONS (APR 1984) .....	75
4.31	VAAR 852.236-86 WORKER'S COMPENSATION (JAN 2008) .....	75
4.32	VAAR 852.236-87 ACCIDENT PREVENTION (SEP 1993).....	75
4.33	VAAR 852.236-88 CONTRACT CHANGES--SUPPLEMENT (JUL 2002) .....	76
4.34	VAAR 852.236-89 BUY AMERICAN ACT (JAN 2008) - ALTERNATE 1 ....	78
4.35	VAAR 852.236-90 RESTRICTION ON SUBMISSION AND USE OF EQUAL PRODUCTS (NOV 1986) .....	79
4.36	VAAR 852.236-91 SPECIAL NOTES (JUL 2002).....	79
4.37	VAAR 852.246-74 SPECIAL WARRANTIES (JAN 2008).....	80
	<b>DAVIS BACON WAGE DETERMINATION.....</b>	<b>81</b>
	<b>ATTACHMENTS.....</b>	<b>88</b>

## STATEMENT OF BID ITEM(S)

Note1: It is the intent of the government that award will be made on bid item 1; however, should the bids received exceed the funds available, award will be on bid item 2, bid item 3, bid item 4, or bid item 5 in that order of priority; based on available funding. Bidders are required to offer pricing for all bid items.

Note2: Bid documents includes both specifications and drawings

**BID ITEM 1, (BASE BID)**: All work specified or shown in the bid documents. Work includes all site work, demolition, general construction, kitchen equipment, plumbing, mechanical, electrical work and fire protection work, necessary removal of existing construction and certain other items and construction of new work shown.

Contractor shall have 600 days from Notice to proceed to complete Work associated with BID ITEM 1, BASE BID.

**BID ITEM 2 (DEDUCT ALTERNATE NO.1)**: Contractor shall perform all work as described in BID ITEM 1 (BASE BID) except:

1. Deduct all work associated with installation new ceiling and floor finish materials and lighting in corridors C-2-2, C-2-3, C-2-4, C-2-5 and C-2-6 in Building 315, as indicated in the bid documents.
2. Deduct all work associated with Restrooms 210 and 228 in Building 315, as indicated in the bid documents.
3. Deduct all work associated with internal duct sealant in Building 315, Statement of Bid Item as indicated in the bid documents.
4. Deduct all work associated with Replacement of panel interiors, circuit breakers and tubs (panels A, B, GA, AA, 1A, 1B, 1C, EM, EM1 and EM2) in Building 315, as indicated in the bid documents.

Contractor shall have 570 days from Notice to Proceed to complete Work associated with BID ITEM 2, (DEDUCT ALTERNATE NO. 1).

**BID ITEM 3 (DEDUCT ALTERNATE NO. 2)**: Contractor shall perform all work as described in BID ITEM 1 (BASE BID) except deduct all work associated with BID ITEM 2 and:

1. Deduct all work associated with Ninth floor of Building 330, as indicated in the bid documents.

Contractor shall have 510 days from Notice to Proceed to complete Work associated with BID ITEM 3, (DEDUCT ALTERNATE NO. 2).

**BID ITEM 4 (DEDUCT ALTERNATE NO. 3)**: Contractor shall perform all work as described in BID ITEM 1 (BASE BID) except deduct all work associated with BID ITEM 2, BID ITEM 3 and:

1. Deduct all work associated with Corridor C2-44, Waiting C2-53 and Podiatry Suite at the second floor of Building 330, as indicated in the bid documents.
2. Deduct all work associated with internal duct sealant in Building 330, as indicated in the bid documents.

Contractor shall have 480 days from Notice to Proceed to complete Work associated with BID ITEM 4, (DEDUCT ALTERNATE NO. 3).

**BID ITEM 5 (DEDUCT ALTERNATE NO. 4)**: Contractor shall perform all work as described in BID ITEM 1 (BASE BID) except deduct all work associated with BID ITEM 2, BID ITEM 3, BID ITEM 4 and:

1. Deduct all work associated with the demolition of Building 307 and associated exterior wall repair, site work and utility modifications, as indicated in the bid documents.

Contractor shall have 360 days from Notice to Proceed to complete Work associated with BID ITEM 5, (DEDUCT ALTERNATE NO. 4).

## **SITE VISIT**

A **ONE-TIME ONLY** SITE VISIT IS SCHEDULED FOR:

**JUNE 20, 2017 AT 1:00 P.M. LOCAL TIME.**

DUE TO SECURITY ISSUES, **ALL** ATTENDEES MUST BE PRE-REGISTERED IN ORDER TO ATTEND. YOU MUST SUBMIT AN ELECTRONIC REQUEST TO [ROBERT.IVEY@VA.GOV](mailto:ROBERT.IVEY@VA.GOV) TO ATTEND THE SITE VISIT AND IT MUST BE RECEIVED NO LATER THAN 4:00 P.M., LOCAL TIME, ON **JUNE 16, 2017**. YOU MUST LIST YOUR COMPANY NAME, THE NAMES OF **ALL** ATTENDEES, AND A TELEPHONE NUMBER. **NO SUBSTITUTIONS** ON THE DAY OF THE SITE VISIT.

IF YOU HAVE NOT PRE-REGISTERED IN WRITING, YOU **WILL NOT** BE PERMITTED TO ATTEND THE SITE VISIT AND YOU MUST LEAVE THE GROUNDS. **THERE ARE NO EXCEPTIONS. DO NOT SHOW UP THE DAY OF THE SITE VISIT AND EXPECT TO ATTEND. DO NOT SHOW UP AT THE CONSTRUCTION SITE AND DO NOT SHOW UP LATE.**

YOU MUST ALSO BRING YOUR OWN SET OF SPECS AND DRAWINGS. ALL DRAWINGS AND SPECS ARE LIMITED TO ELECTRONIC FORMAT AND CAN BE OBTAINED FROM THE [WWW.FBO.GOV](http://WWW.FBO.GOV) WEBSITE.

**NO OTHER SITE VISITS WILL BE SCHEDULED AND ALL INTERESTED OFFERORS ARE STRONGLY ENCOURAGED TO ATTEND.**

**WE WILL MEET IN THE LOBBY OF BUILDING 408, ON THE DAYTON VA MEDICAL CENTER CAMPUS BEGINNING AT 09:45 A.M. LOCAL TIME ON JUNE 20, 2017 TO SIGN IN.**

## **INFORMATION REGARDING BIDDING MATERIAL - BID GUARANTEE AND BONDS**

(a) Bidding materials consisting of drawings, specifications and contract forms may be obtained by qualified General (Prime) Contractors interested in submitting bids direct to the Department of Veterans Affairs directly from the website at [www.fbo.gov](http://www.fbo.gov).

(b) A bid guarantee is required in an amount not less than 20 percent of the bid price but shall not exceed \$3,000,000.00. Failure to furnish the required bid guarantee in the proper form and amount, by the time set for opening of bids, will require rejection of the bid in all cases except those listed in FAR 28.101-4, and may be cause for rejection even then.

(c) If the contract will exceed \$150,000.00 (see FAR 28.102-1 for lesser amount), the bidder to whom award is made will be required to furnish two bonds, a Payment Bond, SF 25A, and a Performance Bond, SF 25, each in the penal sum as noted in the General Conditions of the Specification. Copies of SFs 25 and 25A may be obtained upon application to the issuing office.

Offices of Guidon Design, Inc. as Architect-Engineers will render certain technical services during construction. Such services shall be considered as advisory to the Government and shall not be construed as expressing or implying a contractual act of the Government without affirmations by Contracting Officer or his duly authorized representative.

Cost Range: \$5,000,000.00 - \$10,000,000.00

## **NOTICE-SAFETY COMPLIANCE REQUIREMENT**

### **OSHA SAFETY OR ENVIRONMENTAL VIOLATIONS AND EXPERIENCE MODIFICATION RATE**

- 1.) **All Bidders/Offerors shall submit information pertaining to their past Safety and Environmental record.** The information must contain a certification that the bidder/offeror has no more than three (3) serious, or one (1) repeat or one (1) willful OSHA or any EPA violation(s) in the past three years. If such certification cannot be made, a Bidder/Offeror shall explain why and submit as much information as possible regarding the circumstances of its past safety and environmental record, including the number of EPA violations and/or the number of serious, repeat, and/or willful OSHA violations, along with a detailed description of those violations.
- 2.) **All Bidders/Offerors shall submit information regarding their current Experience Modification Rate (EMR). This information shall be obtained from the Bidder's/Offeror's insurance carrier and be furnished on the insurance carrier's letterhead.** If a Bidder/Offeror's EMR is above 1.0, Bidder/Offeror must submit a written explanation of the EMR from its insurance carrier furnished on the insurance carrier's letterhead, describing the reasons for the elevated EMR and the anticipated date the EMR may be reduced to 1.0 or below.
- 3.) **Self-insured contractors or other contractors that cannot provide their EMR rating on insurance letterhead must obtain a rating from the National Council on Compensation Insurance, Inc. (NCCI)** by completing/submitting form ERM-6 and providing the rating on letterhead from NCCI. Note: Self-insured contractors or other contractors that cannot provide EMR rating on insurance letterhead from the states or territories of CA, DE, MI, NJ, ND, OH, PA, WA, WY, and PR shall obtain their EMR rating from their state run worker's compensation insurance rating bureau.
- 4.) If the NCCI cannot issue an EMR because the Bidder/Offeror lacks insurance history, Bidder/Offeror shall submit a letter indicating so from its insurance carrier furnished on the insurance carrier's letterhead, and include a letter from the NCCI indicating that it has assigned Bidder/Offeror a Unity Rating of 1.0.
- 5.) The above information, along with other information obtained from Government systems, such as the OSHA and EPA online inspection history databases, will be used to make an initial *Determination of Responsibility*.
- 6.) This requirement is applicable to all subcontracting tiers, and prospective prime contractors are responsible for determining the responsibility of their prospective subcontractors.

**See Page 89 for Pre-Award Contractor Safety and Environmental Record  
Evaluation Form**

## **NOTICE OF REQUIRED REGISTRATION WITH CONTRACTOR PERFORMANCE ASSESSMENT SYSTEM (CPARS)**

- (a) as prescribed in Federal Acquisition Regulation (FAR) Part 42.15, the Department of Veterans Affairs (VA) evaluates contractor past performance on all contracts that exceed \$150,000, 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 Seal Logistics Center in Portsmouth, Virginia. CPARS has connectivity with the Past Performance Information Retrieval System (PPIRS) database, which is available to all Federal agencies. PPIRS is the system used to collect and retrieve performance assessment reports used in source selection determinations and completed CPARS report cards transferred to PPIRS. CPARS also includes access to the Federal Awardee Performance and Integrity Information System (FAPIIS). FAPIIS is a web-enabled application accessed via CPARS for contractor responsibility determination information.
- (b) Each contractor whose contract award is estimated to exceed \$150,000 is required to register with CPARS database at the following web address: [www.cpars.csd.disa.mil](http://www.cpars.csd.disa.mil). 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.
- (c) 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.
- (d) 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.

# **CONTRACTOR SECURITY (SECURITY LANGUAGE REQUIREMENTS) AND PRIVACY TRAINING REQUIREMENTS**

## **VA INFORMATION AND INFORMATION SYSTEM SECURITY/PRIVACY**

### **1. GENERAL**

Contractors, contractor personnel, subcontractors, and subcontractor personnel shall be subject to the same Federal laws, regulations, standards, and VA Directives and Handbooks as VA and VA personnel regarding information and information system security.

### **2. ACCESS TO VA INFORMATION AND VA INFORMATION SYSTEMS**

a. A contractor/subcontractor shall request logical (technical) or physical access to VA information and VA information systems for their employees, subcontractors, and affiliates only to the extent necessary to perform the services specified in the contract, agreement, or task order.

b. All contractors, subcontractors, and third-party servicers and 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 must be in accordance with VA Directive and Handbook 0710, Personnel Suitability and Security Program. The Office for Operations, Security, and Preparedness is responsible for these policies and procedures.

c. Contract personnel who require access to national security programs must have a valid security clearance. National Industrial Security Program (NISP) was established by Executive Order 12829 to ensure that cleared U.S. defense industry contract personnel safeguard the classified information in their possession while performing work on contracts, programs, bids, or research and development efforts. The Department of Veterans Affairs does not have a Memorandum of Agreement with Defense Security Service (DSS). Verification of a Security Clearance must be processed through the Special Security Officer located in the Planning and National Security Service within the Office of Operations, Security, and Preparedness.

d. Custom software development and outsourced operations must be located in the U.S. to the maximum extent practical. If such services are proposed to be performed

abroad and are not disallowed by other VA policy or mandates, the contractor/subcontractor must state where all non-U.S. services are provided and detail a security plan, deemed to be acceptable by VA, specifically to address mitigation of the resulting problems of communication, control, data protection, and so forth. Location within the U.S. may be an evaluation factor.

e. The contractor or subcontractor must notify the Contracting Officer immediately when an employee working on a VA system or with access to VA information is reassigned or leaves the contractor or subcontractor's employ. The Contracting Officer must also be notified immediately by the contractor or subcontractor prior to an unfriendly termination.

### **3. VA INFORMATION CUSTODIAL LANGUAGE**

a. Information made available to the contractor or subcontractor by VA for the performance or administration of this contract or information developed by the contractor/subcontractor in performance or administration of the contract shall be used only for those purposes and shall not be used in any other way without the prior written agreement of the VA. This clause expressly limits the contractor/subcontractor's rights to use data as described in Rights in Data - General, FAR 52.227-14(d) (1).

b. VA information should not be co-mingled, if possible, with any other data on the contractors/subcontractor's information systems or media storage systems in order to ensure VA requirements related to data protection and media sanitization can be met. If co-mingling must be allowed to meet the requirements of the business need, the contractor must ensure that VA's information is returned to the VA or destroyed in accordance with VA's sanitization requirements. VA reserves the right to conduct on-site inspections of contractor and subcontractor IT resources to ensure data security controls, separation of data and job duties, and destruction/media sanitization procedures are in compliance with VA directive requirements.

c. Prior to termination or completion of this contract, contractor/ subcontractor must not destroy information received from VA, or gathered/ created by the contractor in the course of performing this contract without prior written approval by the VA. Any data destruction done on behalf of VA by a contractor/subcontractor must be done in accordance with National Archives and Records Administration (NARA) requirements as outlined in VA Directive 6300, Records and Information Management and its Handbook 6300.1 Records Management Procedures, applicable VA Records Control Schedules, and VA Handbook 6500.1, Electronic Media Sanitization. Self-certification by the contractor that the data destruction requirements above have been met must be sent to the VA Contracting Officer within 30 days of termination of the contract.

d. 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 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 in this contract.

e. The contractor/subcontractor shall not make copies of VA information except as authorized and necessary to perform the terms of the agreement 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.

f. If VA determines that the contractor has violated any of the information confidentiality, privacy, and security provisions of the contract, it shall be sufficient grounds for VA to withhold payment to the contractor or third party or terminate the contract for default or terminate for cause under Federal Acquisition Regulation (FAR) part 12.

g. If a VHA contract is terminated for cause, the associated BAA must also be terminated and appropriate actions taken in accordance with VHA Handbook 1600.01, Business Associate Agreements. Absent an agreement to use or disclose protected health information, there is no business associate relationship.

h. The contractor/subcontractor must store, transport, or transmit VA sensitive information in an encrypted form, using VA-approved encryption tools that are, at a minimum, FIPS 140-2 validated.

i. 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.

j. Except for uses and disclosures of VA information authorized by this contract for performance of the contract, the contractor/subcontractor may use and disclose VA information only in two other situations: (i) in response to a qualifying order of 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 VA contracting officer for response.

k. Notwithstanding the provision above, the contractor/subcontractor shall not release VA records protected by Title 38 U.S.C. 5705, confidentiality of medical quality assurance records and/or Title 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. If the contractor/subcontractor is in receipt of a court order or other requests for the above mentioned information, that contractor/subcontractor shall immediately refer such court orders or other requests to the VA contracting officer for response.

I. For service that involves the storage, generating, transmitting, or exchanging of VA sensitive information but does not require C&A or an MOU-ISA for system interconnection, the contractor/subcontractor must complete a Contractor Security Control Assessment (CSCA) on a yearly basis and provide it to the COR.

#### **4. INFORMATION SYSTEM DESIGN AND DEVELOPMENT**

a. Information systems that are designed or developed for or on behalf of VA at non-VA facilities shall comply with all VA directives developed in accordance with FISMA, HIPAA, NIST, and related VA security and privacy control requirements for Federal information systems. This includes standards for the protection of electronic PHI, outlined in 45 C.F.R. Part 164, Subpart C, information and system security categorization level designations in accordance with FIPS 199 and FIPS 200 with implementation of all baseline security controls commensurate with the FIPS 199 system security categorization (reference Appendix D of VA Handbook 6500, VA Information Security Program). During the development cycle a Privacy Impact Assessment (PIA) must be completed, provided to the COR, and approved by the VA Privacy Service in accordance with Directive 6507, VA Privacy Impact Assessment.

b. The contractor/subcontractor shall certify to the COR that applications are fully functional and operate correctly as intended on systems using the VA Federal Desktop Core Configuration (FDCC), and the common security configuration guidelines provided by NIST or the VA. This includes Internet Explorer 7 configured to operate on Windows XP and Vista (in Protected Mode on Vista) and future versions, as required.

c. The standard installation, operation, maintenance, updating, and patching of software shall not alter the configuration settings from the VA approved and FDCC configuration. Information technology staff must also use the Windows Installer Service for installation to the default "program files" directory and silently install and uninstall.

d. Applications designed for normal end users shall run in the standard user context without elevated system administration privileges.

e. The security controls must be designed, developed, approved by VA, and implemented in accordance with the provisions of VA security system development life cycle as outlined in NIST Special Publication 800-37, Guide for Applying the Risk Management Framework to Federal Information Systems, VA Handbook 6500, Information Security Program and VA Handbook 6500.5, Incorporating Security and Privacy in System Development Lifecycle.

f. The contractor/subcontractor is required to design, develop, or operate a System of Records Notice (SOR) on individuals to accomplish an agency function subject to the Privacy Act of 1974, (as amended), Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Privacy Act may involve the imposition of criminal and civil penalties.

g. The contractor/subcontractor agrees to:

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies:

(a) The Systems of Records (SOR); and

(b) The design, development, or operation work that the contractor/ subcontractor is to perform;

(1) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a SOR on individuals that is subject to the Privacy Act; and

(2) Include this Privacy Act clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a SOR.

h. In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a SOR on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a SOR on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a SOR on individuals to accomplish an agency function, the contractor/subcontractor is considered to be an employee of the agency.

(1) "Operation of a System of Records" means performance of any of the activities associated with maintaining the SOR, including the collection, use, maintenance, and dissemination of records.

(2) "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and contains the person's name, or identifying number, symbol, or any other identifying particular assigned to the individual, such as a fingerprint or voiceprint, or a photograph.

(3) "System of Records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

i. The vendor shall ensure the security of all procured or developed systems and technologies, including their subcomponents (hereinafter referred to as "Systems"), throughout the life of this contract and any extension, warranty, or maintenance periods. This includes, but is not limited to workarounds, patches, hotfixes, upgrades, and any physical components (hereafter referred to as Security Fixes) which may be necessary to fix all security vulnerabilities published or known to the vendor anywhere in the Systems, including Operating Systems and firmware. The vendor shall ensure that Security Fixes shall not negatively impact the Systems.

j. The vendor shall notify VA within 24 hours of the discovery or disclosure of successful exploits of the vulnerability which can compromise the security of the Systems (including the confidentiality or integrity of its data and operations, or the availability of the system). Such issues shall be remediated as quickly as is practical, but in no event longer than three (3) calendar days.

k. When the Security Fixes involve installing third party patches (such as Microsoft OS patches or Adobe Acrobat), the vendor will provide written notice to the VA that the patch has been validated as not affecting the Systems within 10 working days. When the vendor is responsible for operations or maintenance of the Systems, they shall apply the Security Fixes within three (3) calendar days.

l. All other vulnerabilities shall be remediated as specified in this paragraph in a timely manner based on risk, but within 60 days of discovery or disclosure. Exceptions to this paragraph (e.g. for the convenience of VA) shall only be granted with approval of the contracting officer and the VA Assistant Secretary for Office of Information and Technology.

## **5. INFORMATION SYSTEM HOSTING, OPERATION, MAINTENANCE, OR USE**

a. For information systems that are hosted, operated, maintained, or used on behalf of VA at non-VA facilities, contractors/subcontractors are fully responsible and accountable for ensuring compliance with all HIPAA, Privacy Act, FISMA, NIST, FIPS, and VA security and privacy directives and handbooks. This includes conducting compliant risk assessments, routine vulnerability scanning, system patching and change management procedures, and the completion of an acceptable contingency plan for each system. The contractor's security control procedures must be equivalent, to those procedures used to secure VA systems. A Privacy Impact Assessment (PIA) must also be provided to the COR and approved by VA Privacy Service prior to operational approval. All external Internet connections to VA's network involving VA information must be reviewed and approved by VA prior to implementation.

b. Adequate security controls for collecting, processing, transmitting, and storing of Personally Identifiable Information (PII), as determined by the VA Privacy Service, must be in place, tested, and approved by VA prior to hosting, operation, maintenance, or use of the information system, or systems by or on behalf of VA. These security controls are to be assessed and stated within the PIA and if these controls are determined not to be in place, or inadequate, a Plan of Action and Milestones (POA&M) must be submitted and approved prior to the collection of PII.

c. Outsourcing (contractor facility, contractor equipment or contractor staff) of systems or network operations, telecommunications services, or other managed services requires certification and accreditation (authorization) (C&A) of the contractor's systems in accordance with VA Handbook 6500.3, Certification and Accreditation and/or the VA OCS Certification Program Office. Government- owned (government facility or government equipment) contractor-operated systems, third party or business partner networks require memorandums of understanding and interconnection agreements (MOU-ISA) which detail what data types are shared, who has access, and the appropriate level of security controls for all systems connected to VA networks.

d. The contractor/subcontractor's system must adhere to all FISMA, FIPS, and NIST standards related to the annual FISMA security controls assessment and review and update the PIA. Any deficiencies noted during this assessment must be provided to the VA contracting officer and the ISO for entry into VA's POA&M management process. The contractor/subcontractor must use VA's POA&M process to document planned remedial actions to address any deficiencies in information security policies, procedures, and practices, and the completion of those activities. Security deficiencies must be corrected within the timeframes approved by the government. Contractor/subcontractor procedures are subject to periodic, unannounced assessments by VA officials, including the VA Office of Inspector General. The physical security aspects associated with contractor/ subcontractor activities must also be subject to such assessments. If major changes to the system occur that may affect the privacy or security of the data or the system, the C&A of the system may need to be reviewed, retested and re- authorized per VA Handbook 6500.3. This may require reviewing and updating all of the documentation (PIA, System Security Plan, Contingency Plan). The Certification Program Office can provide guidance on whether a new C&A would be necessary.

e. The contractor/subcontractor must conduct an annual self-assessment on all systems and outsourced services as required. Both hard copy and electronic copies of the assessment must be provided to the COR. The government reserves the right to conduct such an assessment using government personnel or another contractor/subcontractor. The contractor/subcontractor must take appropriate and timely action (this can be specified in the contract) to correct or mitigate any weaknesses discovered during such testing, generally at no additional cost.

f. VA prohibits the installation and use of personally-owned or contractor/subcontractor-owned equipment or software on VA's network. If non-VA owned equipment must be used to fulfill the requirements of a contract, it must be stated in the service agreement, SOW or contract. All of the security controls required for government furnished equipment (GFE) must be utilized in approved other equipment (OE) and must be funded by the owner of the equipment. All remote systems must be equipped with, and use, a VA-approved antivirus (AV) software and a personal (host-based or enclave based) firewall that is configured with a VA-approved configuration. Software must be kept current, including all critical updates and patches. Owners of approved OE are responsible for providing and maintaining the anti-viral software and the firewall on the non-VA owned OE.

g. All electronic storage media used on non-VA leased or non-VA owned IT equipment that is used to store, process, or access VA information must be handled in adherence with VA Handbook 6500.1, Electronic Media Sanitization upon: (i) completion or termination of the contract or (ii) disposal or return of the IT equipment by the contractor/subcontractor or any person acting on behalf of the contractor/subcontractor, whichever is earlier. Media (hard drives, optical disks, CDs, back-up tapes, etc.) used by the contractors/ subcontractors that contain VA information must be returned to the VA for sanitization or destruction or the contractor/subcontractor must self-certify that the media has been disposed of per 6500.1 requirements. This must be completed within 30 days of termination of the contract.

h. Bio-Medical devices and other equipment or systems containing media (hard drives, optical disks, etc.) with VA sensitive information must not be returned to the vendor at the end of lease, for trade-in, or other purposes. The options are:

- (1) Vendor must accept the system without the drive;
- (2) VA's initial medical device purchase includes a spare drive which must be installed in place of the original drive at time of turn-in; or
- (3) VA must reimburse the company for media at a reasonable open market replacement cost at time of purchase.
- (4) Due to the highly specialized and sometimes proprietary hardware and software associated with medical equipment/systems, if it is not possible for the VA to retain the hard drive, then;
  - (a) The equipment vendor must have an existing BAA if the device being traded in has sensitive information stored on it and hard drive(s) from the system are being returned physically intact; and
  - (b) Any fixed hard drive on the device must be non-destructively sanitized to the greatest extent possible without negatively impacting system operation. Selective clearing down to patient data folder level is recommended using VA approved and

validated overwriting technologies/methods/tools. Applicable media sanitization specifications need to be pre-approved and described in the purchase order or contract.

(c) A statement needs to be signed by the Director (System Owner) that states that the drive could not be removed and that (a) and (b) controls above are in place and completed. The ISO needs to maintain the documentation.

## **6. SECURITY INCIDENT INVESTIGATION**

a. The term "security incident" means an event that has, or could have, resulted in unauthorized access to, loss or damage to VA assets, or sensitive information, or an action that breaches VA security procedures. The contractor/ subcontractor shall immediately notify the COR and simultaneously, the designated ISO and Privacy Officer for the contract of any known or suspected security/privacy incidents, or any unauthorized disclosure of sensitive information, including that contained in system(s) to which the contractor/ subcontractor has access.

b. 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.

c. With respect to unsecured protected health information, the business associate is deemed to have discovered a data breach when the business associate knew or should have known of a breach of such information. Upon discovery, the business associate must notify the covered entity of the breach. Notifications need to be made in accordance with the executed business associate agreement.

d. 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 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.

## **7. LIQUIDATED DAMAGES FOR DATA BREACH**

a. Consistent with the requirements of 38 U.S.C. 5725, a 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 or privacy incident involving any SPI the contractor/subcontractor processes or maintains under this contract.

b. The contractor/subcontractor shall provide notice to VA of a "security incident" as set forth in the Security Incident Investigation section above. Upon such notification, VA must secure from a non-Department entity or the VA Office of Inspector General an independent risk analysis of the data breach to determine the level of risk associated with the data breach for the potential misuse of any sensitive personal information involved in the data breach. 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. Contractor shall fully cooperate with the entity performing the risk analysis. Failure to cooperate may be deemed a material breach and grounds for contract termination.

c. Each risk analysis shall address all relevant information concerning the data breach, including the following:

- (1) Nature of the event (loss, theft, unauthorized access);
- (2) Description of the event, including:
  - (a) date of occurrence;
  - (b) data elements involved, including any PII, such as full name, social security number, date of birth, home address, account number, disability code;
- (3) Number of individuals affected or potentially affected;
- (4) Names of individuals or groups affected or potentially affected;
- (5) 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;
- (6) Amount of time the data has been out of VA control;
- (7) The likelihood that the sensitive personal information will or has been compromised (made accessible to and usable by unauthorized persons);
- (8) Known misuses of data containing sensitive personal information, if any;
- (9) Assessment of the potential harm to the affected individuals;
- (10) Data breach analysis as outlined in 6500.2 Handbook, Management of Security and Privacy Incidents, as appropriate; and
- (11) 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.

d. Based on the determinations of the independent risk analysis, the contractor shall be responsible for paying to the VA liquidated damages in the amount of \$37.50 per affected individual to cover the cost of providing credit protection services to affected individuals consisting of the following:

- (1) Notification;
- (2) One year of credit monitoring services consisting of automatic daily monitoring of at least 3 relevant credit bureau reports;
- (3) Data breach analysis;
- (4) Fraud resolution services, including writing dispute letters, initiating fraud alerts and credit freezes, to assist affected individuals to bring matters to resolution;
- (5) One year of identity theft insurance with \$20,000.00 coverage at \$0 deductible; and
- (6) Necessary legal expenses the subjects may incur to repair falsified or damaged credit records, histories, or financial affairs.

## **8. SECURITY CONTROLS COMPLIANCE TESTING**

On a periodic basis, VA, including the Office of Inspector General, reserves the right to evaluate any or all of the security controls and privacy practices implemented by the contractor under the clauses contained within the contract. With 10 working-days' notice, at the request of the government, the contractor must fully cooperate and assist in a government-sponsored security controls assessment at each location wherein VA information is processed or stored, or information systems are developed, operated, maintained, or used on behalf of VA, including those initiated by the Office of Inspector General. The government may conduct a security control assessment on shorter notice (to include unannounced assessments) as determined by VA in the event of a security incident or at any other time.

## **9. TRAINING**

a. All contractor employees and subcontractor employees requiring access to VA information and VA information systems shall complete the following before being granted access to VA information and its systems:

- (1) Sign and acknowledge (either manually or electronically) understanding of and responsibilities for compliance with the Contractor Rules of Behavior, Appendix E relating to access to VA information and information systems;
- (2) Successfully complete the VA Cyber Security Awareness and Rules of Behavior training and annually complete required security training;

(3) Successfully complete the appropriate VA privacy training and annually complete required privacy training; and

(4) Successfully complete any additional cyber security or privacy training, as required for VA personnel with equivalent information system access in accordance with NIST Special Publication 800-16, Information Technology Security Training Requirements.

b. The contractor shall provide to the contracting officer and/or the COR a copy of the training certificates and certification of signing the Contractor Rules of Behavior for each applicable employee within 1 week of the initiation of the contract and annually thereafter, as required.

c. Failure to complete the mandatory annual training and sign the Rules of Behavior annually, 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.

**\*PLEASE NOTE THAT PIV BADGING REQUIREMENTS APPLY\***

**See Specification 01 00 00 – Section 1.5 for Badging Procedures.**

# INSTRUCTIONS, CONDITIONS AND OTHER STATEMENTS TO BIDDERS/OFFERORS

## 2.1 FAR 52.204-7 SYSTEM FOR AWARD MANAGEMENT (OCT 2016)

(a) Definitions. As used in this provision—

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

*Registered in the System for Award Management (SAM) database* means that—

(1) The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14) into the SAM database;

(2) The offeror has completed the Core, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record “Active”.

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

(b)(1) By submission of an offer, the Offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

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

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

- (1) Company legal business name.
  - (2) Trade style, doing business, or other name by which your entity is commonly recognized.
  - (3) Company physical street address, city, state, and Zip Code.
  - (4) Company mailing address, city, state and Zip Code (if separate from physical).
  - (5) Company telephone number.
  - (6) Date the company was started.
  - (7) Number of employees at your location.
  - (8) Chief executive officer/key manager.
  - (9) Line of business (industry).
  - (10) Company headquarters name and address (reporting relationship within your entity).
- (d) If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.
- (e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.
- (f) Offerors may obtain information on registration at <https://www.acquisition.gov>.

(END-OF-PROV)

## **2.2 FAR 52.204-22 ALTERNATIVE LINE ITEM PROPOSAL (JAN 2017)**

(a) The Government recognizes that the line items established in this solicitation may not conform to the Offeror's practices. Failure to correct these issues can result in difficulties in acceptance of deliverables and processing payments. Therefore, the Offeror is invited to propose alternative line items for which bids, proposals, or quotes are requested in this solicitation to ensure that the resulting contract is economically and administratively advantageous to the Government and the Offeror.

(b) The Offeror may submit one or more additional proposals with alternative line items, provided that alternative line items are consistent with subpart 4.10 of the Federal

Acquisition Regulation. However, acceptance of an alternative proposal is a unilateral decision made solely at the discretion of the Government. Offers that do not comply with the line items specified in this solicitation may be determined to be nonresponsive or unacceptable.

(End of Provision)

### **2.3 FAR 52.211-3 AVAILABILITY OF SPECIFICATIONS NOT LISTED IN THE GSA INDEX OF FEDERAL SPECIFICATIONS, STANDARDS AND COMMERCIAL ITEM DESCRIPTIONS (JUN 1988)**

The specifications cited in this solicitation may be obtained from:

**See Specification Section 01 42 19 for information.**

(End of Provision)

### **2.4 FAR 52.211-4 AVAILABILITY FOR EXAMINATION OF SPECIFICATIONS NOT LISTED IN THE GSA INDEX OF FEDERAL SPECIFICATIONS, STANDARDS AND COMMERCIAL ITEM DESCRIPTIONS (JUN 1988)**

The specifications cited in this solicitation are not available for distribution. However, they may be examined at the following location(s):

**See Specification Section 01 42 19 for information.**

(End of Provision)

### **2.5 FAR 52.216-1 TYPE OF CONTRACT (APR 1984)**

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

(End of Provision)

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

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

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

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

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

(End of Provision)

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

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

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

<b>Goals for minority participation for each trade</b>	<b>Goals for female participation for each trade</b>
11.5 %	6.9 %

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

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

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

- (1) Name, address, and telephone number of the subcontractor;
- (2) Employer's identification number of the subcontractor;

- (3) Estimated dollar amount of the subcontract;
- (4) Estimated starting and completion dates of the subcontract; and
- (5) Geographical area in which the subcontract is to be performed.

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

**State of Ohio ---- County of Montgomery ---- City of Dayton**

(End of Provision)

## **2.8 FAR 52.225-11 NOTICE OF BUY AMERICAN REQUIREMENT— CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (OCT 2016)**

(A) DEFINITIONS. AS USED IN THIS CLAUSE—

“Caribbean Basin country construction material” means a construction material that—

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

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

- (1) Means any item of supply (including construction material) that is—
  - (i) A commercial item (as defined in paragraph (1) of the definition at FAR [2.101](#));
  - (ii) Sold in substantial quantities in the commercial marketplace; and
  - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in [46 U.S.C. 40102\(4\)](#), such as agricultural products and petroleum products.

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

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction

site. Materials purchased directly by the Government are supplies, not construction material.

“Cost of components” means—

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

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

“Designated country” means any of the following countries:

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

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

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

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

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

“Domestic construction material” means—

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

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

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

(ii) The construction material is a COTS item.

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

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

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

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

“Least developed country construction material” means a construction material that—

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

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

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

“WTO GPA country construction material” means a construction material that—

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

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

(b) Construction materials.

(1) This clause implements [41 U.S.C. chapter 83](#), by providing a preference for domestic construction material. In accordance with [41 U.S.C. 1907](#), the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR [12.505\(a\)\(2\)](#)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

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

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

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

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

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

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

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

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

**2.9 FAR 52.225-12 NOTICE OF BUY AMERICAN REQUIREMENT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (MAY 2014)**

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

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

(c) Evaluation of offers.

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

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

(d) Alternate offers.

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

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

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material, and the offeror shall be required to furnish such domestic or designated country construction material. An offer based on use of the foreign construction material for which an exception was requested—

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

(ii) May be accepted if revised during negotiations.

(End of Provision)

## **2.10 FAR 52.228-1 BID GUARANTEE (SEP 1996)**

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

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

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

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

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

## **2.11 FAR 52.233-2 SERVICE OF PROTEST (SEP 2006)**

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

Bob Ivey  
Contracting Officer

Hand-Carried Address:

Department of Veterans Affairs  
Service Area Office (SAO) - Central  
Network Contracting Office (NCO) 10  
3140 Governor's Place Blvd. - Suite 210

Kettering OH 45409-1337  
Mailing Address:

Department of Veterans Affairs  
Service Area Office (SAO) - Central  
Network Contracting Office (NCO) 10  
3140 Governor's Place Blvd. - Suite 210  
Kettering OH 45409-1337

(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)

**2.12 FAR 52.236-27 SITE VISIT (CONSTRUCTION) (FEB 1995) ALTERNATE I (FEB 1995)**

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

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

**JUNE 20, 2017 at 1:00 P.M. (Local Time)**

(c) Participants will meet at—

**Dayton VA Medical Center - Building 408 (1<sup>st</sup> Floor Lobby Area)**

(End of Provision)

**2.13 FAR 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)**

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

<http://www.acquisition.gov/far/index.html>  
<http://www.va.gov/oal/library/vaar/>

(End of Provision)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
FAR 52.204-16	COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING	JUL 2016
FAR 52.204-17	OWNERSHIP OR CONTROL OF OFFEROR	JUL 2016
FAR 52.214-3	AMENDMENTS TO INVITATIONS FOR BIDS	DEC 2016
FAR 52.214-4	FALSE STATEMENTS IN BIDS	APR 1984
FAR 52.214-5	SUBMISSION OF BIDS	DEC 2016
FAR 52.214-6	EXPLANATION TO PROSPECTIVE BIDDERS	APR 1984
FAR 52.214-7	LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS	NOV 1999
FAR 52.214-18	PREPARATION OF BIDS—CONSTRUCTION	APR 1984
FAR 52.214-19	CONTRACT AWARD—SEALED BIDDING— CONSTRUCTION	AUG 1996
FAR 52.214-34	SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE	APR 1991
FAR 52.214-35	SUBMISSION OF OFFERS IN U.S. CURRENCY	APR 1991

#### **2.14 VAAR 852.211-72 TECHNICAL INDUSTRY STANDARDS (JAN 2008)**

The supplies or equipment required by this invitation for bid or request for proposal must conform to the standards of the drawings and specifications. The successful bidder or offeror will be required to submit proof that the item(s) he/she furnishes conforms to this requirement. This proof may be in the form of a label or seal affixed to the equipment or supplies, warranting that they have been tested in accordance with and conform to the specified standards. Proof may also be furnished in the form of a certificate from one of the above listed organizations certifying that the item(s) furnished have been tested in accordance with and conform to the specified standards.

(End of Provision)

#### **2.15 VAAR 852.214-70 CAUTION TO BIDDERS--BID ENVELOPES (JAN 2008)**

It is the responsibility of each bidder to take all necessary precautions, including the use of proper mailing cover, to insure that the bid price cannot be ascertained by anyone prior to bid opening. If a bid envelope is furnished with this invitation, the bidder is requested to use this envelope in submitting the bid. The bidder may, however, use any suitable envelope, identified by the invitation number and bid opening time and date. If an Optional Form (OF) 17, Sealed Bid Label, is furnished with this invitation in lieu of a bid envelope, the bidder is advised to complete and affix the OF 17 to the lower left corner of the envelope used in submitting the bid.

(End of Provision)

**2.16 VAAR 852.233-70 PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (JAN 2008)**

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

- (1) Include the name, address, fax number, and telephone number of the protester;
- (2) Identify the solicitation and/or contract number;
- (3) Include an original signed by the protester or the protester's representative and at least one copy;
- (4) Set forth a detailed statement of the legal and factual grounds of the protest, including a description of resulting prejudice to the protester, and provide copies of relevant documents;
- (5) Specifically request a ruling of the individual upon whom the protest is served;
- (6) State the form of relief requested; and
- (7) Provide all information establishing the timeliness of the protest.

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

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

(End of Provision)

**2.17 VAAR 852.233-71 ALTERNATE PROTEST PROCEDURE (JAN 1998)**

As an alternative to filing a protest with the contracting officer, an interested party may file a protest with the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, or for solicitations issued by the Office of Construction and Facilities Management, the Director, Office of Construction and Facilities Management, 810 Vermont Avenue, NW., Washington, DC 20420. The protest will not be considered if the interested party has a protest on the same or similar issues pending with the contracting officer.

(End of Provision)

**2.18 VAAR 852.270-1 REPRESENTATIVES OF CONTRACTING OFFICERS (JAN 2008)**

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

(End of Provision)

## REPRESENTATIONS AND CERTIFICATIONS

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

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

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

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

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

(2) If the provision at FAR 52.204-7 is not included in this solicitation, and the offeror is currently registered in the System for Award Management (SAM), and has completed the Representations and Certifications section of SAM electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. **The offeror shall indicate which option applies by checking one of the following boxes:**

(i) Paragraph (d) applies.

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

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

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

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

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

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

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

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

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

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

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

(B) Exceed the simplified acquisition threshold; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) If the acquisition value is \$50,000 or more but is less than \$77,533, the provision with its Alternate II applies.

(D) If the acquisition value is \$77,533 or more but is less than \$100,000, the provision with its Alternate III applies.

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

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

(xxiv) 52.225-25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and 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) FAR 52.204-17, Ownership or Control of Offeror.

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

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

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

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

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

(vii) FAR 52.227-6, Royalty Information.

(A) Basic.

(B) Alternate I.

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

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

FAR Clause #	Title	Date	Change

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

(End of Provision)

### **3.2 FAR 52.209-5 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION)(MAR 2012)**

(a) In accordance with Division H, sections 8124 and 8125 of P.L. 112-74 and sections 738 and 739 of P.L. 112-55 none of the funds made available by either Act may be used to enter into a contract with any corporation that—

(1) Has an unpaid federal tax liability, unless the agency has considered suspension or debarment of the corporation and the Suspension and Debarment Official has made a determination that this action is not necessary to protect the interests of the Government.

(2) Has a felony criminal violation under any Federal or State law within the preceding 24 months, unless the agency has considered suspension or debarment of the corporation and Suspension and Debarment Official has made a determination that this action is not necessary to protect the interests of the Government.

**(b) The Offeror represents that—**

(1) The offeror does  does not  have any unpaid Federal tax liability that has been assessed and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

(2) The offeror, its officers or agents acting on its behalf have  have not  been convicted of a felony criminal violation under a Federal or State law within the preceding 24 months.

(End of Provision)

### **3.3 FAR 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)**

(a) Definitions. As used in this provision—

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

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

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

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

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

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

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

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

(i) In a criminal proceeding, a conviction.

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

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

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

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

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

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

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

(End of Provision)

## GENERAL CONDITIONS

### 4.1 FAR 52.203-19 PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (JAN 2017)

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

*Internal confidentiality agreement or statement* means a confidentiality agreement or any other written statement that the contractor requires any of its employees or subcontractors to sign regarding nondisclosure of contractor information, except that it does not include confidentiality agreements arising out of civil litigation or confidentiality agreements that contractor employees or subcontractors sign at the behest of a Federal agency.

*Subcontract* means any contract as defined in subpart 2.1 entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

*Subcontractor* means any supplier, distributor, vendor, or firm (including a consultant) that furnishes supplies or services to or for a prime contractor or another subcontractor.

(b) The Contractor shall not require its employees or subcontractors to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a Government contract to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (e.g., agency Office of the Inspector General).

(c) The Contractor shall notify current employees and subcontractors that prohibitions and restrictions of any preexisting internal confidentiality agreements or statements covered by this clause, to the extent that such prohibitions and restrictions are inconsistent with the prohibitions of this clause, are no longer in effect.

(d) The prohibition in paragraph (b) of this clause does not contravene requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(e) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015, (Pub. L. 113-235), and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions) use of funds appropriated (or otherwise made available) is prohibited, if the

Government determines that the Contractor is not in compliance with the provisions of this clause.

(f) The Contractor shall include the substance of this clause, including this paragraph (f), in subcontracts under such contracts.

(End of Clause)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of Clause)

#### **4.3 FAR 52.209-9 UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)**

(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the System for Award Management database via <https://www.acquisition.gov>.

(b) As required by section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111-212), all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available. FAPIIS consists of two segments—

(1) The non-public segment, into which Government officials and the Contractor post information, which can only be viewed by—

(i) Government personnel and authorized users performing business on behalf of the Government; or

(ii) The Contractor, when viewing data on itself; and

(2) The publicly-available segment, to which all data in the non-public segment of FAPIS is automatically transferred after a waiting period of 14 calendar days, except for—

(i) Past performance reviews required by subpart 42.15;

(ii) Information that was entered prior to April 15, 2011; or

(iii) Information that is withdrawn during the 14-calendar-day waiting period by the Government official who posted it in accordance with paragraph (c)(1) of this clause.

(c) The Contractor will receive notification when the Government posts new information to the Contractor's record.

(1) If the Contractor asserts in writing within 7 calendar days, to the Government official who posted the information, that some of the information posted to the nonpublic segment of FAPIIS is covered by a disclosure exemption under the Freedom of Information Act, the Government official who posted the information must within 7 calendar days remove the posting from FAPIIS and resolve the issue in accordance with agency Freedom of Information procedures, prior to reposting the releasable information. The contractor must cite FAR 52.209-9 and request removal within 7 calendar days of the posting to FAPIIS.

(2) The Contractor will also have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, i.e., for a total period of 6 years.

Contractor comments will remain a part of the record unless the Contractor revises them.

(3) As required by section 3010 of Pub. L. 111-212, all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available.

(d) Public requests for system information posted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

(End of Clause)

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

The Contractor shall be required to (a) commence work under this contract within ten (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 two hundred forty 600 calendar days. The time stated for completion shall include final cleanup of the premises.

(END-OF-CLAUSE)

#### **4.5 FAR 52.211-12 LIQUIDATED DAMAGES—CONSTRUCTION (SEPT 2000)**

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of \$337.65 for each calendar day of delay until the work is completed or accepted.

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

(End of Clause)

#### **4.6 FAR 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)**

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

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

*Small business concern* means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR

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

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

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

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

(3) For long-term contracts—

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

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

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

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

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

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

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

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

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

(End of Clause)

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

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

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

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

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

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

(2) Submit this estimate to the Contracting Officer.

(END-OF-CLAUSE)

#### **4.8 FAR 52.225-11 BUY AMERICAN—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (FEB 2016) ALTERNATE I (MAY 2014)**

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

"Bahrainian, Mexican, or Omani construction material" means a construction material that—

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

"Caribbean Basin country construction material" means a construction material that—

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

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

"Commercially available off-the-shelf (COTS) item"— (1) Means any item of supply (including construction material) that is—

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

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

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

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

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

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

"Cost of components" means—

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

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

"Designated country" means any of the following countries:

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

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

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

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

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

"Domestic construction material" means—

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

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

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

(ii) The construction material is a COTS item.

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

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

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

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

"Least developed country construction material" means a construction material that—

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

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

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

"WTO GPA country construction material" means a construction material that—

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

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

(b) Construction materials.

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a

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

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

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

### Lead Glass

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

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

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

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

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

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

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

(2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

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

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

Foreign and Domestic Construction Materials Price Comparison

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

Material			
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*[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)

#### **4.9 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)

#### **4.10 FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

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

<http://www.acquisition.gov/far/index.html>  
<http://www.va.gov/oal/library/vaar/>

(End of Clause)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
FAR 52.202-1	DEFINITIONS	NOV 2013
FAR 52.203-3	GRATUITIES	APR 1984
FAR 52.203-5	COVENANT AGAINST CONTINGENT FEES	MAY 2014
FAR 52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	SEP 2006
FAR 52.203-7	ANTI-KICKBACK PROCEDURES	MAY 2014
FAR 52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	MAY 2014
FAR 52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	MAY 2014
FAR 52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	OCT 2010
FAR 52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT	OCT 2015
FAR 52.203-14	DISPLAY OF HOTLINE POSTER	OCT 2015
FAR 52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS	APR 2014
FAR 52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER	MAY 2011
FAR 52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	JAN 2011
FAR 52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS	OCT 2016
FAR 52.204-13	SYSTEM FOR AWARD MANAGEMENT MAINTENANCE	OCT 2016
FAR 52.204-14	SERVICE CONTRACT REPORTING REQUIREMENTS	OCT 2016
FAR 52.204-18	COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE	JUL 2016
FAR 52.204-19	INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS	DEC 2014
FAR 52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	OCT 2015
FAR 52.209-10	PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS	NOV 2015
FAR 52.210-1	MARKET RESEARCH	APR 2011
FAR 52.214-26	AUDIT AND RECORDS—SEALED BIDDING	OCT 2010
FAR 52.214-27	PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA—MODIFICATIONS—SEALED BIDDING	AUG 2011

FAR 52.214-28	SUBCONTRACTOR CERTIFIED COST OR PRICING DATA—MODIFICATIONS—SEALED BIDDING	OCT 2010
FAR 52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	NOV 2016
FAR 52.222-3	CONVICT LABOR	JUN 2003
FAR 52.222-4	CONTRACT WORK HOURS AND SAFETY STANDARDS—OVERTIME COMPENSATION	MAY 2014
FAR 52.222-6	CONSTRUCTION WAGE RATE REQUIREMENTS	MAY 2014
FAR 52.222-7	WITHHOLDING OF FUNDS	MAY 2014
FAR 52.222-8	PAYROLLS AND BASIC RECORDS	MAY 2014
FAR 52.222-9	APPRENTICES AND TRAINEES	JUL 2005
FAR 52.222-10	COMPLIANCE WITH COPELAND ACT REQUIREMENTS	FEB 1988
FAR 52.222-11	SUBCONTRACTS (LABOR STANDARDS)	MAY 2014
FAR 52.222-12	CONTRACT TERMINATION—DEBARMENT	MAY 2014
FAR 52.222-13	COMPLIANCE WITH CONSTRUCTION WAGE RATE REQUIREMENTS AND RELATED REGULATIONS	MAY 2014
FAR 52.222-14	DISPUTES CONCERNING LABOR STANDARDS	FEB 1988
FAR 52.222-15	CERTIFICATION OF ELIGIBILITY	MAY 2014
FAR 52.222-21	PROHIBITION OF SEGREGATED FACILITIES	APR 2015
FAR 52.222-26	EQUAL OPPORTUNITY	SEP 2016
FAR 52.222-27	AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION	APR 2015
FAR 52.222-35	EQUAL OPPORTUNITY FOR VETERANS	OCT 2015
FAR 52.222-37	EMPLOYMENT REPORTS ON VETERANS	FEB 2016
FAR 52.222-40	NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT	DEC 2010
FAR 52.222-54	EMPLOYMENT ELIGIBILITY VERIFICATION	OCT 2015
FAR 52.222-55	MINIMUM WAGES UNDER EXECUTIVE ORDER 13658	DEC 2015
FAR 52.222-60	PAYCHECK TRANSPARENCY (EXECUTIVE ORDER 13673)	OCT 2016
FAR 52.222-62	PAID SICK LEAVE UNDER EXECUTIVE ORDER 13706	JAN 2017
FAR 52.223-2	AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS	SEP 2013
FAR 52.223-3	HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA	JAN 1997
FAR 52.223-5	POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION ALTERNATE I (MAY 2011)	MAY 2011
FAR 52.223-6	DRUG-FREE WORKPLACE	MAY 2001
FAR 52.223-15	ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS	DEC 2007

FAR 52.223-17	AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS	MAY 2008
FAR 52.223-18	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING	AUG 2011
FAR 52.223-21	FOAMS	JUN 2016
FAR 52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	JUN 2008
FAR 52.227-1	AUTHORIZATION AND CONSENT	DEC 2007
FAR 52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT	DEC 2007
FAR 52.227-4	PATENT INDEMNITY—CONSTRUCTION CONTRACTS	DEC 2007
FAR 52.228-5	INSURANCE—WORK ON A GOVERNMENT INSTALLATION	JAN 1997
FAR 52.228-11	PLEDGES OF ASSETS	JAN 2012
FAR 52.228-12	PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS	MAY 2014
FAR 52.228-14	IRREVOCABLE LETTER OF CREDIT	NOV 2014
FAR 52.228-15	PERFORMANCE AND PAYMENT BONDS—CONSTRUCTION	OCT 2010
FAR 52.229-3	FEDERAL, STATE, AND LOCAL TAXES	FEB 2013
FAR 52.232-5	PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS	MAY 2014
FAR 52.232-17	INTEREST	MAY 2014
FAR 52.232-23	ASSIGNMENT OF CLAIMS	MAY 2014
FAR 52.232-27	PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS	JAN 2017
FAR 52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER—SYSTEM FOR AWARD MANAGEMENT	JUL 2013
FAR 52.232-39	UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS	JUN 2013
FAR 52.232-40	PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS	DEC 2013
FAR 52.233-1	DISPUTES – ALTERNATE I	MAY 2014
FAR 52.233-3	PROTEST AFTER AWARD	AUG 1996
FAR 52.233-4	APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM	OCT 2004
FAR 52.236-2	DIFFERING SITE CONDITIONS	APR 1984
FAR 52.236-3	SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK	APR 1984
FAR 52.236-5	MATERIAL AND WORKMANSHIP	APR 1984
FAR 52.236-6	SUPERINTENDENCE BY THE CONTRACTOR	APR 1984
FAR 52.236-7	PERMITS AND RESPONSIBILITIES	NOV 1991
FAR 52.236-8	OTHER CONTRACTS	APR 1984
FAR 52.236-9	PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS	APR 1984

FAR 52.236-10	OPERATIONS AND STORAGE AREAS	APR 1984
FAR 52.236-11	USE AND POSSESSION PRIOR TO COMPLETION	APR 1984
FAR 52.236-12	CLEANING UP	APR 1984
FAR 52.236-13	ACCIDENT PREVENTION	NOV 1991
FAR 52.236-14	AVAILABILITY AND USE OF UTILITY SERVICES	APR 1984
FAR 52.236-17	LAYOUT OF WORK	APR 1984
FAR 52.236-21	SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION ALTERNATE I (APR 1984)	FEB 1997
FAR 52.236-26	PRECONSTRUCTION CONFERENCE	FEB 1995
FAR 52.242-13	BANKRUPTCY	JUL 1995
FAR 52.242-14	SUSPENSION OF WORK	APR 1984
FAR 52.243-4	CHANGES	JUN 2007
FAR 52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS	JAN 2017
FAR 52.245-1	GOVERNMENT PROPERTY	JAN 2017
FAR 52.245-9	USE AND CHARGES	APR 2012
FAR 52.246-12	INSPECTION OF CONSTRUCTION	AUG 1996
FAR 52.246-21	WARRANTY OF CONSTRUCTION	MAR 1994
FAR 52.248-3	VALUE ENGINEERING—CONSTRUCTION	OCT 2015
FAR 52.249-2	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) ALTERNATE I (SEPT 1996)	APR 2012
FAR 52.249-10	DEFAULT (FIXED-PRICE CONSTRUCTION)	APR 1984
FAR 52.253-1	COMPUTER GENERATED FORMS	JAN 1991

#### **4.11 VAAR 852.203-70 COMMERCIAL ADVERTISING (JAN 2008)**

The bidder or offeror agrees that if a contract is awarded to him/her, as a result of this solicitation, he/she will not advertise the award of the contract in his/her commercial advertising in such a manner as to state or imply that the Department of Veterans Affairs endorses a product, project or commercial line of endeavor.

(End of Clause)

#### **4.12 VAAR 852.203-71 DISPLAY OF DEPARTMENT OF VETERAN AFFAIRS HOTLINE POSTER (DEC 1992)**

(a) Except as provided in paragraph (c) below, the Contractor shall display prominently, in common work areas within business segments performing work under VA contracts, Department of Veterans Affairs Hotline posters prepared by the VA Office of Inspector General.

(b) Department of Veterans Affairs Hotline posters may be obtained from the VA Office of Inspector General (53E), P.O. Box 34647, Washington, DC 20043-4647.

(c) The Contractor need not comply with paragraph (a) above if the Contractor has established a mechanism, such as a hotline, by which employees may report suspected

instances of improper conduct, and instructions that encourage employees to make such reports.

(End of Clause)

#### **4.13 VAAR 852.211-73 BRAND NAME OR EQUAL (JAN 2008)**

(Note: as used in this clause, the term "brand name" includes identification of products by make and model.)

(a) If items called for by this invitation for bids have been identified in the schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering "equal" products (including products of the brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the bids and are determined by the Government to meet fully the salient characteristics requirements listed in the invitation.

(b) Unless the bidder clearly indicates in the bid that the bidder is offering an "equal" product, the bid shall be considered as offering a brand name product referenced in the invitation for bids.

(c)(1) If the bidder proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the invitation for bids, or such product shall be otherwise clearly identified in the bid. The evaluation of bids and the determination as to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the bidder or identified in his/her bid as well as other information reasonably available to the purchasing activity. CAUTION TO BIDDERS. The purchasing activity is not responsible for locating or securing any information that is not identified in the bid and reasonably available to the purchasing activity. Accordingly, to insure that sufficient information is available, the bidder must furnish as a part of his/her bid all descriptive material (such as cuts, illustrations, drawings or other information) necessary for the purchasing activity to:

(i) Determine whether the product offered meets the salient characteristics requirement of the Invitation for Bids, and

(ii) Establish exactly what the bidder proposes to furnish and what the Government would be binding itself to purchase by making an award. The information furnished may include specific references to information previously furnished or to information otherwise available to the purchasing activity.

(2) If the bidder proposes to modify a product so as to make it conform to the requirements of the Invitation for Bids, he/she shall:

(i) Include in his/her bid a clear description of such proposed modifications, and

(ii) Clearly mark any descriptive material to show the proposed modifications.

(3) Modifications proposed after bid opening to make a product conform to a brand name product referenced in the Invitation for Bids will not be considered.

The clause entitled "Brand name or equal" applies only to the following line items:

1. Corbin Russwin Locks
2. Edwards/EST Fire Alarm
3. Tridium Building Automation System
4. ValCom Overhead Paging System

(End of Clause)

#### **4.14 VAAR 852.211-74 LIQUIDATED DAMAGES (JAN 2008)**

If any unit of the work contracted for is accepted in advance of the whole, the rate of liquidated damages assessed will be in the ratio that the value of the unaccepted work bears to the total amount of the contract. If a separate price for unaccepted work has not been stated in the contractor's bid, determination of the value thereof will be made from schedules of costs furnished by the contractor and approved by the contracting officer, as specified elsewhere in the contract.

(End of Clause)

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

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

(1) Means a small business concern:

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

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

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

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

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

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

(b) *General.*

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

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

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

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

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

(END-OF-CLAUSE)

#### **4.16 LIMITATIONS ON SUBCONTRACTING-- MONITORING AND COMPLIANCE (JUN 2011)**

This solicitation includes VAAR 852.219-10 VA Notice of Total Service- Disabled Veteran-Owned Small Business Set-Aside (JULY 2016) (DEVIATION). Accordingly, any contract resulting from this solicitation will include this clause. The contractor is advised in performing contract administration functions, the CO may use the services of a support contractor(s) retained by VA to assist in assessing the contractor's compliance with the limitations on subcontracting or percentage of work performance requirements specified in the clause. To that end, the support contractor(s) may require access to contractor's offices where the contractor's business records or other proprietary data are retained and to review such business records regarding the contractor's compliance with this requirement. All support contractors conducting this review on behalf of VA will

be required to sign an “Information Protection and Non-Disclosure and Disclosure of Conflicts of Interest Agreement” to ensure the contractor's business records or other proprietary data reviewed or obtained in the course of assisting the CO in assessing the contractor for compliance are protected to ensure information or data is not improperly disclosed or other impropriety occurs. Furthermore, if VA determines any services the support contractor(s) will perform in assessing compliance are advisory and assistance services as defined in FAR 2.101, Definitions, the support contractor(s) must also enter into an agreement with the contractor to protect proprietary information as required by FAR 9.505-4, obtaining access to proprietary information, paragraph (b). The contractor is required to cooperate fully and make available any records as may be required to enable the CO to assess the contractor's compliance with the limitations on subcontracting or percentage of work performance requirement.

#### **4.17 VAAR 852.228-70 BOND PREMIUM ADJUSTMENT (JAN 2008)**

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

(End of Clause)

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

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

(End of Clause)

#### **4.19 VAAR 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012)**

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

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

(2) *Designated agency office* has the meaning given in 5 CFR 1315.2(m).

(3) *Electronic form* means an automated system transmitting information electronically according to the

Accepted electronic data transmission methods and formats identified in paragraph (c) of this clause. Facsimile, email, and scanned documents are not acceptable electronic forms for submission of payment requests.

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

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

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

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

(1) VA's Electronic Invoice Presentment and Payment System. (See Web site at <http://www.fsc.va.gov/einvoice.asp>.)

(2) Any system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) and chartered by the American National Standards Institute (ANSI). The X12 EDI Web site (<http://www.x12.org>) includes additional information on EDI 810 and 811 formats.

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

(e) *Exceptions.* If, based on one of the circumstances below, the contracting officer directs that payment requests be made by mail, the contractor shall submit payment requests by mail through the United States Postal Service to the designated agency office. Submission of payment requests by mail may be required for:

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

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

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

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

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

(End of Clause)

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

#### **4.20 VAAR 852.236-71 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (JUL 2002)**

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

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

(b) Large scale drawings supersede small scale drawings.

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

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

(End of Clause)

#### **4.21 VAAR 852.236-74 INSPECTION OF CONSTRUCTION (JUL 2002)**

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

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

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

(End of Clause)

#### **4.22 VAAR 852.236-76 CORRESPONDENCE (APR 1984)**

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

(End of Clause)

#### **4.23 VAAR 852.236-77 REFERENCE TO "STANDARDS" (JUL 2002)**

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

(End of Clause)

#### **4.24 VAAR 852.236-78 GOVERNMENT SUPERVISION (APR 1984)**

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

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

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

(End of Clause)

#### **4.25 VAAR 852.236-79 DAILY REPORT OF WORKERS AND MATERIAL (APR 1984)**

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

(End of Clause)

#### **4.26 VAAR 852.236-80 SUBCONTRACTS AND WORK COORDINATION (APR 1984)**

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

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

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

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

(End of Clause)

#### **4.27 VAAR 852.236-82 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (WITHOUT NAS) (APR 1984)**

(a) Retainage:

(1) The contracting officer may retain funds:

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

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

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

(i) Unsatisfactory progress as determined by the contracting officer;

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

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

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

(3) Any level of retention shall not exceed 10 percent either where there is determined to be unsatisfactory performance, or when the retainage is to ensure

satisfactory completion. Retained amounts shall be paid promptly upon completion of all contract requirements, but nothing contained in this subparagraph shall be construed as limiting the contracting officer's right to withhold funds under other provisions of the contract or in accordance with the general law and regulations regarding the administration of Government contracts.

(b) The contractor shall submit a schedule of cost to the contracting officer for approval within 30 calendar days after date of receipt of notice to proceed. Such schedule will be signed and submitted in triplicate. The approved cost schedule will be one of the bases for determining progress payments to the contractor for work completed. This schedule shall show cost by the branches of work for each building or unit of the contract, as instructed by the resident engineer.

(1) The branches shall be subdivided into as many sub-branches as are necessary to cover all component parts of the contract work.

(2) Costs as shown on this schedule must be true costs and, should the resident engineer so desire, he/she may require the contractor to submit the original estimate sheets or other information to substantiate the detailed makeup of the schedule.

(3) The sum of the sub-branches, as applied to each branch, shall equal the total cost of such branch. The total cost of all branches shall equal the contract price.

(4) Insurance and similar items shall be prorated and included in the cost of each branch of the work.

(5) The cost schedule shall include separate cost information for the systems listed in the table in this paragraph (b)(5). The percentages listed below are proportions of the cost listed in the contractor's cost schedule and identify, for payment purposes, the value of the work to adjust, correct and test systems after the material has been installed. Payment of the listed percentages will be made only after the contractor has demonstrated that each of the systems is substantially complete and operates as required by the contract.

### VALUE OF ADJUSTING, CORRECTING, AND TESTING SYSTEM

System	Percent
Pneumatic tube system	10
Incinerators (medical waste and trash)	5
Sewage treatment plant equipment	5
Water treatment plant equipment	5

Washers (dish, cage, glass, etc.)	5
Sterilizing equipment	5
Water distilling equipment	5
Prefab temperature rooms (cold, constant temperature)	5
Entire air-conditioning system (Specified under 600 Sections)	5
Entire boiler plant system (Specified under 700 Sections)	5
General supply conveyors	10
Food service conveyors	10
Pneumatic soiled linen and trash system	10
Elevators and dumbwaiters	10
Materials transport system	10
Engine-generator system	5
Primary switchgear	5
Secondary switchgear	5
Fire alarm system	5
Nurse call system	5
Intercom system	5
Radio system	5
TV (entertainment) system	5

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

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

(1) The material or equipment is in accordance with the contract requirements and/or approved samples and shop drawings.

(2) Only those materials and/or equipment as are approved by the resident engineer for storage will be included.

(3) Such materials and/or equipment will be stored separately and will be readily available for inspection and inventory by the resident engineer.

(4) Such materials and/or equipment will be protected against weather, theft and other hazards and will not be subjected to deterioration.

(5) All of the other terms, provisions, conditions and covenants contained in the contract shall be and remain in full force and effect as therein provided.

(6) A supplemental agreement will be executed between the Government and the contractor with the consent of the contractor's surety for off-site storage.

(e) The contractor, prior to receiving a progress or final payment under this contract, shall submit to the contracting officer a certification that the contractor has made payment from proceeds of prior payments, or that timely payment will be made from the proceeds of the progress or final payment then due, to subcontractors and suppliers in accordance with the contractual arrangements with them.

(f) The Government reserves the right to withhold payment until samples, shop drawings, engineer's certificates, additional bonds, payrolls, weekly statements of compliance, proof of title, nondiscrimination compliance reports, or any other things required by this contract, have been submitted to the satisfaction of the contracting officer.

(End of Clause)

#### **4.28 VAAR 852.236-84 SCHEDULE OF WORK PROGRESS (NOV 1984)**

(a) The contractor shall submit with the schedule of costs, a progress schedule that indicates the anticipated installation of work versus the elapsed contract time, for the approval of the contracting officer. The progress schedule time shall be represented in the form of a bar graph with the contract time plotted along the horizontal axis. The starting date of the schedule shall be the date the contractor receives the "Notice to Proceed." The ending date shall be the original contract completion date. At a minimum, both dates shall be indicated on the progress schedule. The specific item of work, i.e., "Excavation", "Floor Tile", "Finish Carpentry", etc., should be plotted along the vertical

axis and indicated by a line or bar at which time(s) during the contract this work is scheduled to take place. The schedule shall be submitted in triplicate and signed by the contractor.

(b) The actual percent completion will be based on the value of installed work divided by the current contract amount. The actual completion percentage will be indicated on the monthly progress report.

(c) The progress schedule will be revised when individual or cumulative time extensions of 15 calendar days or more are granted for any reason. The revised schedule should indicate the new contract completion date and should reflect any changes to the installation time(s) of the items of work affected.

(d) The revised progress schedule will be used for reporting future scheduled percentage completion.

(End of Clause)

#### **4.29 ADDITIONAL REQUIREMENTS FOR BAR CHART SCHEDULE**

A. Original Schedule: The following information shall be furnished as minimum for each activity on the initial bar chart schedule.

- Activity Description
- Estimated Duration
- Responsibility (Trade) and Manpower (Crew size)
- Planned Start and Completion Dates
- Activity Cost

B. Updated Schedules and Updating Procedures

(1) The contractor shall submit, at intervals of 30 calendar days, an updated bar chart schedule of the actual construction progress. The bar chart schedule shall show the activities or portions of activities started and/or completed during the reporting period and their updated monetary percentage value(s) as a basis for the contractor's monthly progress report (payment request).

(2) The contractor shall adjust the activity bars on the bar chart schedule to reflect the actual progress and the remaining activity durations. The updated bar chart schedule shall show at a minimum the following:

- Actual start and completion dates for activities started and/or completed during the reporting period.
- VA issued changes to the original contract requirements that change the contractor's original sequence of work.
- Contractor changes in work sequence, durations, responsibility, manpower, and activity costs.

C. All contract changes durations proposed by the contractor shall be reviewed and approved by the Contracting Officer prior to insertion into the updated bar chart schedule. The updated bar chart schedule shall include all contract changes issued during the reporting period.

(End of Clause)

#### **4.30 VAAR 852.236-85 SUPPLEMENTARY LABOR STANDARDS PROVISIONS (APR 1984)**

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

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

(End of Clause)

#### **4.31 VAAR 852.236-86 WORKER'S COMPENSATION (JAN 2008)**

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

(End of Clause)

#### **4.32 VAAR 852.236-87 ACCIDENT PREVENTION (SEP 1993)**

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

(End of Clause)

**4.33 VAAR 852.236-88 CONTRACT CHANGES--SUPPLEMENT (JUL 2002)**

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

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

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

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

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

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

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

(1) When requested by the contracting officer, the contractor shall submit proposals for changes in work to the resident engineer. Proposals, to be submitted as expeditiously as possible but within 30 calendar days after receipt of request, shall be in legible form, original and two copies, with an itemized breakdown that will include material, quantities, unit prices, labor costs (separated into trades), construction equipment, etc. (Labor costs are to be identified with specific material placed or operation performed.) The contractor must obtain and furnish with a proposal an

itemized breakdown as described above, signed by each subcontractor participating in the change regardless of tier. When certified cost or pricing data or information other than cost or pricing data are required under FAR 15.403, the data shall be submitted in accordance with FAR 15.403-5. No itemized breakdown will be required for proposals amounting to less than \$1,000.

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

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

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

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

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

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

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

are properly includable as part of the downward adjustment for a deductive change. The amount of such allowance is subject to negotiation.

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

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

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

(End of Clause)

#### **4.34 VAAR 852.236-89 BUY AMERICAN ACT (JAN 2008) – ALTERNATE 1 (JAN 2008)**

(a) Reference is made to the clause entitled "Buy American Act - Construction Materials under Trade Agreements," FAR 52.225-11 External link to a government website.

(b) The restrictions contained in this clause 852.236-89 are waived for designated country construction material as defined in FAR 52.225-11 External link to a government website. Notwithstanding a bidder's right to offer identifiable foreign construction material in its bid pursuant to FAR 52.225-11 External link to a government website, VA does not anticipate accepting an offer that includes foreign construction material, other than designated country construction material.

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

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

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

(End of Clause)

#### **4.35 VAAR 852.236-90 RESTRICTION ON SUBMISSION AND USE OF EQUAL PRODUCTS (NOV 1986)**

This clause applies to the following items:

1. Corbin Russwin Locks
2. Edwards/EST Fire Alarm
3. Tridium Building Automation System
4. ValCom Overhead Paging System

Notwithstanding the "Material and Workmanship" clause of this contract, FAR 52.236-5(a), nor any other contractual provision, "equal" products will not be considered by the Department of Veterans Affairs and may not be used.

(End of Clause)

#### **4.36 VAAR 852.236-91 SPECIAL NOTES (JUL 2002)**

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

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

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

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

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

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

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

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

(End of Clause)

#### **4.37 VAAR 852.246-74 SPECIAL WARRANTIES (JAN 2008)**

The clause entitled "Warranty of Construction" in FAR 52.246-21 is supplemented as follows:

Any special warranties that may be required under the contract shall be subject to the elections set forth in the FAR clause at 52.246-21, Warranty of Construction, unless otherwise provided for in such special warranties.

(End of Clause)

# Wage Determination

## General Decision Number: OH170114 02/23/2017 OH114

Superseded General Decision Number: OH20160114

State: Ohio

Construction Type: Building

County: Montgomery County in Ohio.

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

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.20 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/06/2017
1	01/13/2017
2	02/03/2017
3	04/21/2017

ASBE0008-010 07/01/2016

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR.....	\$ 29.40	15.67

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\* BROH0022-005 06/01/2013

	Rates	Fringes
BRICKLAYER.....	\$ 26.17	12.15

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BROH0022-011 07/01/2013

	Rates	Fringes
TILE FINISHER.....	\$ 22.42	5.41

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ELEC0082-004 12/05/2016

	Rates	Fringes
ELECTRICIAN.....	\$ 29.05	18.21

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ELEV0011-002 01/01/2016

	Rates	Fringes
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ELEVATOR MECHANIC.....\$ 42.07            29.985+a+b

PAID HOLIDAYS:

a. New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the Friday after Thanksgiving, and Christmas Day.

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for less than 5 years' service.

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ENGI0018-034 06/01/2016		
	Rates	Fringes
POWER EQUIPMENT OPERATOR		
Crane.....	\$ 33.84	14.41
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ENGI0066-045 06/01/2014		
	Rates	Fringes
POWER EQUIPMENT OPERATOR		
Forklift.....	\$ 27.91	17.51
Grader/Blade.....	\$ 31.02	17.51
Mechanic.....	\$ 31.52	17.51
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IRON0044-020 06/01/2016		
	Rates	Fringes
IRONWORKER, ORNAMENTAL.....	\$ 26.47	20.20
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IRON0290-006 06/01/2016		
	Rates	Fringes
IRONWORKER (Reinforcing and Structural).....	\$ 27.00	20.93
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LABO1410-005 06/01/2016		
	Rates	Fringes
LABORER		
Asbestos Abatement (Removal from Ceilings, Floors, and Walls).....	\$ 23.60	10.30
Mason Tender - Brick.....	\$ 24.20	10.30
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PAIN0249-005 05/01/2016		
	Rates	Fringes
PAINTER (Brush and Roller).....	\$ 23.29	9.40
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PAIN0387-002 01/01/2016		
	Rates	Fringes
GLAZIER.....	\$ 25.25	13.30
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PLUM0050-009 07/04/2016		
	Rates	Fringes
PIPEFITTER (Excludes HVAC Pipe Installation).....	\$ 40.00	24.36
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PLUM0162-008 01/01/2017		
	Rates	Fringes
PLUMBER (HVAC Pipe Installation Only).....	\$ 29.25	21.12
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ROOF0075-001 05/01/2016		
	Rates	Fringes
ROOFER.....	\$ 23.30	15.60
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SFOH0669-009 04/01/2016		
	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 35.08	19.99
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* UAVG-OH-0021 01/01/2017		
	Rates	Fringes
OPERATOR: Oiler.....	\$ 26.24	15.43
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* UAVG-OH-0025 01/01/2017		
	Rates	Fringes
SHEET METAL WORKER, Excludes HVAC Duct and Unit Installation.....	\$ 27.56	21.91
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* UAVG-OH-0031 08/29/2014		
	Rates	Fringes
BRICKLAYER: TILE SETTER.....	\$ 24.64	10.88
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SUOH2012-095 08/29/2014		
	Rates	Fringes
CARPENTER.....	\$ 21.59	5.70
CEMENT MASON/CONCRETE FINISHER...	\$ 26.07	12.34
DRYWALL HANGER AND METAL STUD INSTALLER.....	\$ 21.02	4.21
FORM WORKER.....	\$ 22.41	9.01
LABORER: Common or General.....	\$ 20.87	5.92
LABORER: Mason Tender - Cement/Concrete.....	\$ 22.95	8.60
LABORER: Pipelayer.....	\$ 23.98	8.58

OPERATOR:		
Backhoe/Excavator/Trackhoe.....	\$ 33.36	6.13
OPERATOR: Bobcat/Skid		
Steer/Skid Loader.....	\$ 30.26	12.58
OPERATOR: Bulldozer.....	\$ 26.01	4.95
OPERATOR: Loader.....	\$ 29.99	12.80
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 30.28	13.29
OPERATOR: Roller.....	\$ 28.25	12.61
PAINTER: Spray.....	\$ 22.78	12.40
PLUMBER, Excludes HVAC Pipe Installation.....	\$ 26.21	12.51
SHEET METAL WORKER (HVAC Duct and HVAC Unit Installation Only).....	\$ 24.28	10.50
TRUCK DRIVER: Dump (All Types)...	\$ 22.08	11.51

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

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

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

Union Rate Identifiers

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

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

#### Survey Rate Identifiers

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

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

#### Union Average Rate Identifiers

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

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

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#### WAGE DETERMINATION APPEALS PROCESS

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

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

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in

which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

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

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

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

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

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

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

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

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

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**END OF GENERAL DECISION**

## Pre-Award Contractor Safety and Environmental Record Evaluation Form

Information provided below is current and applicable to Solicitation  
[VA250-17-B-0195](#)

Company Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Contact: \_\_\_\_\_

Utilizing your OSHA 300 Forms, please complete the following information:

Category	2014	2015	2016
Number of man hours (jobsite and office).			
Number of cases involving days away from work, restricted activity, or both (Column H and I of OSHA 300).			
Days away, restricted, or transferred rate (# of days away, restricted, or transferred cases x 200,000/# of man hours) (DART Rate).			
Number of serious, willful, or repeat violations from OSHA within the last 3 years. Please attach explanation for any violations.			

**Please attach copies of the following documents: OSHA 300 and 300a Forms.**

These forms can be accessed through the OSHA publications search page:  
<http://www.osha.gov/pls/publications/publication.html>.

1. Provide six-digit North American Industrial Classification System (NAICS) Code for this acquisition:
  
2. Who administers your company's Safety and Health Program?
  
3. Company's Insurance Experience Modification Rate (EMR):

# Attachments

5. Combined Specifications Volume 1A 1-30-17.
6. Combined Specifications Volume 1B 1-30-17.
7. Combined Specifications Volume 2 1-30-17.
8. Combined Drawings Part 1 1-30-17.
9. Combined Drawings Part 2 1-30-17.
10. Combined Drawings Part 3 1-30-17.
11. Combined Drawings Part 4 1-30-17.
12. Combined Drawings Part 5 1-30-17.
13. Combined Drawings Part 6 1-30-17.
14. Combined Drawings Part 7 1-30-17.
15. Combined Drawings Part 8 1-30-17.
16. Combined Drawings Part 9 1-30-17.
17. Combined Drawings Part 10 1-30-17.
18. Combined Drawings Part 11 1-30-17.
19. Colors/Finishes JA (Redacted).
20. Corbin Russwin Locks JA (Redacted).
21. Fire Alarm JA (Redacted).
22. Tridium System JA (Redacted).
23. ValCom JA (Redacted).