1. SOLICITATION NUMBER

2. TYPE OF SOLICITATION

3. DATE ISSUED

PAGE OF PAGES

4. CONTRACT NUMBER

5. REQUISITION/PURCHASE REQUEST NUMBER

6. PROJECT NUMBER

7. ISSUED BY

CODE

8. ADDRESS OFFER TO

a. NAME

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

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

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

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

12b. CALENDAR DAYS

13. ADDITIONAL SOLICITATION REQUIREMENTS:

STANDARD FORM 1442 (REV. 8/2014)

STANDARD FORM 1442

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

SOLICITATION, OFFER,

AND AWARD

(Construction, Alteration, or Repair)

SOLICITATION

SOLICITATION

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

9. FOR INFORMATION

CALL:

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

SEALED BID (IFB)

NEGOTIATED (RFP)

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

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

calendar days after receiving

award,

notice to proceed. This performance period is

mandatory

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

YES

NO

a.

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

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

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

b.

An offer guarantee

is,

is not required.

c.

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

.

d.

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

considered and will be rejected.

1

62

VA245-17-R-0261

X

09-13-2017

581-17-103

Department of Veterans Affairs

VAMC (613)

VISN 5 Contract Satellite Office

510 Butler Avenue, Building 306A

Martinsburg WV 25405

Same as Block #7

Kathryn Leatherman

304-263-0811 ext. 2083

Repair of Boiler #1 Project #581-17-103: Contractor to provide all labor, tools, equipment, material and supervision

to provide general construction, alterations, removal of old controls, burners and refractory and install new controls,

burners, refractory and master control panel along with support of the various trades at the Huntington VAMC, 1540

Spring Valley Drive, Huntington, WV 25704.

See Page 19 for Continuation of Block 10 - Description of Line Items

A single award will be made on Item No. 1, but in the event the offer exceeds the funds available, a single award will

be made on Item No. 2. Offerors must provide a price on each item listed.

Award will be made to the responsive/responsible bidder whose bid, conforming to the invitation, will be most

advantageous to the Government, considering only bid price. Award shall not be made until all required approvals

have been obtained.

The pre-bid site visits are scheduled for Thursday, September 21, 2017 at 1:00P. Attendance is urged and expected.

This is 100% Set-Aside for Service Disabled Veteran Owned Small Business. NAICS Code 236210 and Size Standard $36.5M

Normal work hours are Monday through Friday, 8:00AM - 4:30PM local time excluding weekends and National holidays (New

Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's

Day, Thanksgiving Day, Christmas Day) and any other day specifically designated by the President of the United States.

52.232-18 AVAILABILITY OF FUNDS (APR 1984)

FUNDS ARE NOT PRESENTLY AVAILABLE FOR THIS CONTRACT. THE GOVERNMENT'S OBLIGATION UNDER THIS CONTRACT IS CONTINGENT

UPON THE AVAILABILITY OF APPROPRIATED FUNDS FROM WHICH PAYMENT FOR CONTRACT PURPOSES CAN BE MADE. NO LEGAL LIABILITY

ON THE PART OF THE GOVERNMENT FOR ANY PAYMENT MAY ARISE UNTIL FUNDS ARE MADE AVAILABLE TO THE CONTRACTING OFFICER FOR

THIS CONTRACT AND UNTIL THE CONTRACTOR RECEIVES NOTICE OF SUCH AVAILABILITY, TO BE CONFIRMED IN WRITING BY THE

CONTRACTING OFFICER.

15

90

X

X

52.211-10

X

15

4

03:00PM

10-17-2017

X

120

14. NAME AND ADDRESS OF OFFEROR

15. TELEPHONE NUMBER

16. REMITTANCE ADDRESS

CODE

FACILITY CODE

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

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

AMOUNTS

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

19. ACKNOWLEDGMENT OF AMENDMENTS

AMENDMENT

NUMBER

DATE.

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

20b. SIGNATURE

20c. OFFER DATE

21. ITEMS ACCEPTED:

22. AMOUNT

23. ACCOUNTING AND APPROPRIATION DATA

24. SUBMIT INVOICES TO ADDRESS SHOWN IN

ITEM

25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO

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

)

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

)

26. ADMINISTERED BY

27. PAYMENT WILL BE MADE BY

PHONE:

FAX:

28. NEGOTIATED AGREEMENT

29. AWARD

Your

Contractor agrees

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

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

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

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

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

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

ractual document is necessary.

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

the clauses, representations, certifications, and specifications incorporated

by reference in or attached to this contract.

30a. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED

31a. NAME OF CONTRACTING OFFICER

TO SIGN

30b. SIGNATURE

30c. DATE

31b. UNITED STATES OF AMERICA

31c. AWARD DATE

BY

**OFFER**

**AWARD**

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

(Include ZIP Code)

(Include area code)

(Include only if different than Item 14.)

(Insert any number equal to or greater than

the minimum requirement stated in Item 13d. Failure to insert any number means the offeror accepts the minimum in Item 13d.)

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

(Type or print)

(4 copies unless otherwise specified)

(Type or print)

(Type or print)

(Contractor is required to sign this

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

(Contractor is not required to sign this document.)

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

**(To be completed by Government)**

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

Item No. 1: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Item No. 2: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Department of Veterans Affairs

VAMC (613)

VISN 5 Contract Satellite Office

510 Butler Avenue, Building 306A

Martinsburg WV 25405

Department of Veterans Affairs

VAFSC

Attn: East Team

Po Box 149971

Austin TX 78714

Kathryn C. Leatherman

Contracting Officer

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# INFORMATION REGARDING BIDDING MATERIAL, BID GUARANTEE AND BONDS

(a) Bidding materials may be obtained at <https://www.fbo.gov/>.

(b) Subcontractors, material firms and others interested in preparing subbids may view the interested parties list at <https://www.fbo.gov/> to obtain a list of organizations, such as Builders Exchanges, Chambers of Commerce, Contractors and others, who have received bidding materials.

(c) A bid guarantee is required in an amount not less than 20 percent of the bid price but shall not exceed $3,000,000. Failure to furnish the required bid guarantee in the proper form and amount, by the time set for 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.

(d) If the contract will exceed $100,000.00 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.

Cost Range: $25,000.00 to $500,000.00

DESCRIPTION OF WORK: (Continued from Block 10 of SF1442):

Item No. 1: Mechanical Work: Work includes all labor, material, equipment and supervision to perform the required Mechanical construction work and controls work on this project including:

a. Demolition of burner, FGR system, fuel trains to main valves, barometric draft damper, housekeeping pads, existing controls and trim up to connection on the boiler shell, utilities up to the main shut off valve.

b. Demolish all internal refractory materials in Boiler #1 and provide and install new refractory materials.

c. Provide and install new concrete housekeeping pads for all new floor mounted equipment.

d. Provide and install new burner on Boiler #1 including, trim, fuel trains, controls, necessary piping up to connections on boiler shell and new boiler control panel.

e. Provide and install new non-return valve and secondary stop valve.

f. Provide new Boiler Plant Master Control Panel.

g. Provide and install new workstation/server for boiler controls.

h. Provide and install new SCADA software, programming and graphics.

i. Provide and install new Modbus communications network.

Electrical Work: Work includes all labor, material, equipment and supervision to perform the required electrical construction work on this project.

a. Demolition of existing electrical circuits, conduit and wire from Boiler #1 back to the existing panel board.

b. Provide and install new electrical circuits to Boiler #1 control panel, make connections between the control panel and the burner.

c. Provide new electrical circuit to boiler plant master control panel.

d. Provide conduit for communications network in coordination with the mechanical contractor.

Item No. 2: Bid ALTERNATE #1: Delete materials and labor to provide SCADA software (System Control and Data Acquisition)

**DOCUMENTS REQUIRED WITH BID PACKAGE:**

Completed 1442 – pages 1 & 2

Offer Guarantee/Bid Bond

Representations and Certifications

Technical Package

Price Package – include detailed breakdown of each item in the proposal

# INSTRUCTIONS, CONDITIONS AND OTHER STATEMENTS TO BIDDERS/OFFERORS

**PRE-CONSTRUCTION CONFERENCE –** PRE-CONSTRUCTION CONFERENCE: Upon receipt of Notice of Award and prior to attending the pre-construction conference, the successful bidder shall have completed steps #1 and #2 of the enclosed Security Requirements document. This process includes completion and submission of Security Requirements Form #1 (Background Investigation Request Worksheet) to the VHA Service Center Personnel Security Office. Each contract employee is required to undergo a Special Agreement Check (SAC) background investigation which equates to being fingerprinted. Contract employees shall complete Security Requirements Form #2 (VHA Special Agreement Checks Memorandum) and follow instructions outlined in step #2 of the attached Security Requirements document to complete fingerprinting process.

Upon successful completion of fingerprinting, all contract employees will be required to obtain a non-Personal Identity Verification (non-PIV) badge (see step #3 of attached Security Requirements document. Contractor staff working on site will be required to wear the badges at all times while on site. Contractor will be required to immediately notify the Contracting Officer of any changes in staff performing work on site. Upon completion of the contract all identification badges must be returned to the Contracting Officer before final payment can be made.

**METRIC PRODUCTS:** If a product is manufactured to metric dimensions and those dimensions exceed the tolerances specified in the inch-pound units, a request should be made to the Contracting Officer to determine if the product is acceptable. The Contracting Officer, in concert with the Contracting Officer Representative (COR), will accept or reject the product.

**INVOICING:** In order to comply with the Improper Payments Elimination Recovery Act of 2010 (IPERA), VA is finalizing actions to mandate electronic invoice submission to the VA Financial Services Center (VAFSC) (reference VAAR clause 852.232-72 in the General Conditions Section of the solicitation). The VAFSC has expanded its electronic invoicing services through OB10 provided solutions. OB10 electronic invoicing services, including mapping/transaction fees, are free to VAFSC vendors. If you are not currently a member of the OB10 network, subscribing is simple.  There is no expensive hardware or software to install.

OB10 will handle all of the necessary technical and commercial steps needed to establish your account.  If you prefer, feel free to contact OB10 at [va.registration@ob10.com](mailto:va.registration@ob10.com) or 1-877-752-0900 then select option 2.  To contact the Department of Veteran Affairs Financial Service Center (VAFSC) about this request visit <http://www.fsc.va.gov/fsc/einvoice.asp> or call the FSC e-Invoice Contact Information at (866) 372-1141.

Contractor must provide the Contracting Officer a copy of all invoices at the time they are submitted to Austin, TX.

**System for Award Management (SAMS), VETBIZ AND VETS 4212 REGISTRATION:**

VERIFICATION OF STATUS OF APPARENTLY SUCCESSFUL OFFEROR: In accordance with VAAR 804.1102 VENDOR INFORMATION PAGES (VIP) DATABASE, prior to January 1, 2012, all VOSBs and SDVOSBs must be listed in the VIP database, available at [http://www.VetBiz.gov](http://www.VetBiz.gov/), and also must be registered in the System for Award Management (SAM) (see 48 CFR subpart 4.11) to submit offers and receive contract awards under VA’s Veteran-owned Small Business prime contracting and subcontracting opportunities program set forth in Part 819.  After December 31, 2011, all VOSBs, including SDVOSBs, must be listed as verified in the VIP database, and also must be registered in the SAM to be eligible to participate in order to receive new contract awards under this program. SDVOSB Firms that submit bids/offers on SDVOSB/VOSB set-asides that are not listed on VIP will be deemed nonresponsive (IFB) or technically unacceptable (RFP/RFQ).

**Class Deviation to VAAR 819.70 Service Disabled Veteran Owned Small Business Acquisition Program - 819.7003 Eligibility.**

(a) Eligibility of SDVOSBs and VOSBs continues to be governed by the Small Business Administration regulations, 13 CFR subparts 125.8 through 125.13, as well as the FAR, except where expressly directed otherwise by the VAAR, and 38 CFR verification regulations for SDVOSBs and VOSBs.

(b) At the time of submission of offer, the offeror must represent to the contracting officer that it is a‑

1. SDVOSB concern or VOSB concern;
2. Small business concern under the North American Industry Classification System (NAICS) code assigned to the acquisition; and
3. Verified for eligibility in the VIP database.

(c) A joint venture may be considered an SDVOSB or VOSB concern if

1. At least one member of the joint venture is an SDVOSB or VOSB concern, and makes the representations in paragraph (b) of this section;
2. Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement;
3. The joint venture meets the requirements of paragraph 7 of the size standard explanation of affiliates in FAR 19.101; and
4. The joint venture meets the requirements of 13 CFR 125.15(b), modified to include veteran-owned small businesses where this CFR section refers to SDVOSB concerns.

(d) Any SDVOSB or VOSB concern (nonmanufacturer) must meet the requirements in FAR 19.102(f) to receive a benefit under this program.

(e) Exceptions: At the time of submission of an offer, previously verified VOSB firms identified by the Center for Veterans Enterprise (CVE) as currently undergoing the VOSB status verification renewal process are eligible for an expedited status review. However, an award shall not be made to the offeror-firm until verification is complete.

VETS 4212: Title 38, USC Section 4212(d) and Public Law 105-339, requires that federal contractors report, at least annually, the number and category of veterans who are within their workforce. Submission of the VETS 4212 reporting information can be done electronically at: <https://www.dol.gov/vets/vets4212.>. For procurement awards in excess of $30,000, this report must be completed and accepted prior to any Federal contract award. Therefore, all potential contractors are encouraged to file every year.

SYSTEM FOR AWARD MANAGEMENT (SAM):Federal Acquisition Regulations require that federal contractors register in the System for Award Management (SAM) database at <http://www.sam.gov> and enter all mandatory information into the system. Award cannot be made until the contractor has registered. Offerors are encouraged to ensure that they are registered in SAM prior to submitting their proposal.

**SAFETY OR ENVIRONMENTAL VIOLATIONS AND EXPERIENCE MODIFICATION RATE:**

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

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

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

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

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

**Limitations on Subcontracting – Monitoring and Compliance**

This solicitation includes VAAR clause 852.219-10 VA Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside and FAR clause 52.219-14 Limitations of Subcontracting. 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) wil 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.

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

# CONTRACTOR PERFORMANCE ASSESSMENT REPORTING SYSTEM (CPARS)

This contract will require reporting in Contractor Performance Assessment Reporting System

(CPARS); therefore, the contractor shall provide a POC to the contracting officer at time of award who will be responsible for managing reports/CPARs on this contract and will be assigned the role as “contractor representative” within CPARS.

This system is used Federal-agency wide as a solution for the collection of Contractor Past

Performance Information (PPI). This is being implemented throughout Veterans Health Administration

(VHA) in an attempt to be in compliance with the requirements of FAR part 42 for documenting

contractor performance assessments and evaluations.

Past performance information is relevant information for future source selection purposes regarding a contractor’s actions under previously awarded contracts. It includes, for example, the contractor’s record of conforming to contract requirements and to standards of good workmanship; the contractor’s record of forecasting and controlling costs; the contractor’s adherence to contract schedules, including the administrative aspects of performance; the contractor’s history of reasonable and cooperative behavior and commitment to customer satisfaction; the contractor’s record of integrity and business ethics, and generally, the contractor’s business-like concern for the interest of the customer. Each contractor is required to register in the Contractor Performance Assessment Reporting System (CPARS) @ <https://www.cpars.gov>. The Contracting Officer/Contracting Officer Representative will evaluate the contractor's performance annually. The report shall be assigned in CPARS to the contractor's designated representative (contractor representative) for comment. The contractor representative will have thirty (30) days to submit any comments and then re-assign the report to the VA Contracting Officer acting as the Assessing Official within CPARS. Failure to register and respond within the 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.

**SECURITY REQUIREMENTS**

**Special Agreement Checks (SAC) and issuance of Non-Personnel Identification Verification (Non- PIV) security badges for Contractor and Subcontractor Employees performing work under the contract.**

All contractor employees who have access to VA sensitive information are subject to the same level of investigation as VA employees. Through the use of Appendix A of VA Handbook 6500.6, it has been determined that performance of this Construction requirement **does not require** any access to the VA Information Technology network; therefore; the inclusion of VAAR Security Clause 852.273-75 is not required.

The level of background investigation commensurate with the level of access needed to perform the statement of work for this Construction requirement is a Special Agreement Check (SAC) investigation, which equates to fingerprinting. This level of investigation requires all contractor and subcontractor employees performing work under this requirement to be fingerprinted and to be issued an appropriate security badge.

The Contractor is responsible for bearing the expense of all employee background investigations initiated, regardless of the final adjudication determination.  The VA facility will pay for investigations conducted by the Office of Personnel Management (OPM); however, the General/Prime Contractor is responsible for reimbursing the VA.  The following are estimated costs for each of the potential risk level background investigations.

**SAC** (Fingerprints) $     24.95

**NACI** (Low Risk) $   231.00

**MBI** (Medium Risk)        $   825.00

**BI** (High Risk)                $ 3,465.00

Where this guidance refers to “contractor employees” it is inclusive of all “subcontractor employees” performing under this contract as well.

**CONTRACTOR: Upon receipt of Notice of Award, Contractor shall comply with the following processes in order to be in compliance with contract security requirements.**

**SPECIAL AGREEMENT CHECKS (SAC) AND NON-PERSONAL IDENTITY VERIFICATION – PIV (Security Badge) INSTRUCTIONS**

1. Contractor POC will complete the **Background Request Worksheet** (Form #1) in its entirety, listing all employees that will be performing work under the construction requirement portion of this Construction project. Once completed, this form shall be submitted to the VHA Service Center (VSC) Personnel Security Office via password protected or encrypted email to [VSCSecurity@va.gov](mailto:VSCSecurity@va.gov) or faxed to (216)447-8020.

**NOTE:** Due to the personal information contained in the Background Investigation Request Worksheet, the worksheet must be sent in a secure manner. Please DO NOT email a document containing social security numbers unless the email is encrypted.

**Process that occurs after VSC receives Form #1 for processing:** Within five business days of receiving the Background Investigation Request Worksheet, the VSC Personnel Security Office will enter a background investigation request into the VA Security Investigation Center (SIC) Contractor Request Database (CRD) for each contractor employee. When the request is entered, an automated “initial” e-mail is sent to the contractor point of contact listed on the Background Investigation Request Worksheet. The automated e-mail identifies the background investigation level requested (SAC) and provides a website link with further instructions.

If a contractor employee has a background investigation from another federal agency, it may be reciprocated as long as the background investigation meets the appropriate level designated in the current statement of work and has occurred within the last five years with a favorable adjudication and no break in service. Please be aware that any public trust case that is older than two years and does nothave a favorable adjudication cannot be reciprocated unless it was a no issue case.

VSC Personnel Security Office staff will coordinate with the VA Security and Investigations Center (SIC) staff to verify reciprocity. If the contractor employee receives the automated e­mail from the VA SIC CRD and believes he/she may be eligible for reciprocity, please contact the VA SIC using the contact information in the e-mail received. Reciprocity is **NOT** automatic. If a background investigation can be reciprocated, the VA SIC will send an e­mail notification to the contractor.

**Note:** If contract personnel need to be added to perform work under this contract after the original Background Investigation Request Worksheet (Form #1) has been submitted, Contractor must update and submit another Background Investigation Request Worksheet (Form #1) to the VSC Personnel Security Office so that a background investigation can be initiated on each contract personnel added. When completing Form #1 for the additional contract employee, indicate next to the purchase order number field on Form #1 that this is an **ADDITION**.

**The additional contract employee cannot start work until all security requirements outlined in this guidance are completed.**

1. All contractor employees are required to be fingerprinted as part of the Special Agreement Check (SAC) requirement. Within five business days of Contractor receiving Notice of Award, each contract employee listed on Form #1 must take the **VHA Special Agreement Checks (SAC) Memorandum** (Form #2) and two forms of ID to their nearest VA facility to have their fingerprints submitted and the bottom portion of Form #2 completed by a fingerprinting official. Appointments for fingerprints should be made through the Contracting Officer Technical Representative or the local VA facility. Completed SAC forms shall be faxed or mailed directly to the VSC Personnel Security Office the same day the contractor employee is fingerprinted. Forms can be **faxed or mailed** directly to:

Personnel Security Office

VHA Service Center (VSC)

6100 Oak Tree Blvd #500

Independence, Ohio 44131

Fax: (216) 447-8025

[VSCSecurity@va.gov](mailto:VSCSecurity@va.gov)

Contractor shall inform the Contracting Officer Technical Representative (COR)/Contracting Officer when fingerprinting has been completed for each contract employee.

1. Each individual working on the contract or the contractor POC shall complete the **VHA Service Center PIV Sponsorship Worksheet** (Form #3) for each employee, in its entirety, and return to VSC Security Office as soon as possible, either via fax, encrypted email or password protected documents. Upon receipt of this form and final results of fingerprinting confirmation, the VHA Security Service Center will send an email notification to the Contractors point of contact and the Contracting Officer authoring contract employees to proceed with obtaining their required non-PIV security badge.

**NOTE: No Notice to Proceed will be issued** until the fingerprinting requirement (SAC) has been met and the VHA Service Center PIV Sponsorship Worksheet (Form #3) has been forwarded and processed through the VSC Personnel Security Office.

Security badges can and should be obtained at any VA Facility. Contact your Contracting Officer for a listing of all of the VA facility locations for fingerprinting and issuance of security badges. The same badge will be valid at all VA facilities throughout the contract period.

**IMPORTANT** points for Contract Employees to follow for obtaining non-PIV badges:

* 1. Contract employees shall work with the COR or PIV Office at the VA facility to verify the physical location of the PIV Point of Contact (POC). Contract employees shall call ahead to make an appointment with the VA facility PIV office.
  2. Contract employees shall make sure they have two (2) forms of identification with them.
  3. Contract employees shall inform the COR when badges have been received.

**Your security badge must be displayed in accordance with the local VA directives (must be visible at all times while working at any VA facility).**

In the event of a lost badge, contract employees must immediately contact their supervisor who in turn shall contact the COR. They must also contact the VHA Service Center (VSC), Personnel Security Service, and the local PIV office to report the loss.

1. These security badges are the Property of the United States Government; Contractor is **REQUIRED** to turn in all security badges at the last campus where work has been performed. After completion of the project, Contractor shall complete the Contractor Turn-In Inventory Report (Form #4) to verify that all badges have been collected and turned in to be destroyed. Any failure to collect, record and return security badges at the end of the contract performance period could result in a Poor Contractor Performance Rating in the Contractor Performance Assessment Rating System (CPARS).

See Attachment for Security Forms

# EVALUATION PROCEDURES/PROPOSAL SUBMISSION REQUIREMENTS

1. **PREPARATION OF PROPOSALS AND REQUIREMENTS:**
2. All proposals shall be submitted by the date and time specified in the solicitation or otherwise specified in any amendment issued thereafter. Proposals shall be submitted in two parts, a Technical Proposal, to include Past Performance as well as business status, and a Price Proposal.  Your submittal must include a one-sided original and three (3) copies of the Technical Proposal, and a one-sided original and three (3) copies of the Price Proposal.  The Price Proposal shall be sealed in a single, labeled package, separate from the Technical Proposal.
3. All pages containing text shall be consecutively numbered, type-written on 8-1/2x11 inch paper with margins of at least one inch, and created using a font no smaller than 12.  Proposals shall not be permanently bound (in order to facilitate incorporation of portions of the proposal into the final contract document if necessary).
4. The format used for the areas and factors below shall be strictly adhered to.  All responses in the offeror’s package shall clearly indicate the applicable Evaluation Area, and Section, if applicable.
5. It is the offeror’s responsibility to insure the completeness of the proposal.  The evaluation panel for the Government will evaluate solely on the information provided in the initial proposal and will not assume that an offeror possesses any capability that is not specifically identified in the proposal.
6. Offerors are advised that award will be made on the basis of Best value to the Government.   Offerors who do not propose to provide pricing for all line items in Block 17 of the SF1442 will not be considered for award.
7. Please Note: Missing, incomplete, or ambiguous information could result in a rating of “unacceptable.”  The evaluation factors are listed below. It is intended that proposals be evaluated, and award made, without discussions with the offerors (other than communications conducted for purpose of minor clarification(s)), unless discussions are determined to be necessary.  Failure to submit mandatory information for a factor, indicated by the word shall, will result in a rating of “unacceptable” for that factor, and the offeror may be ineligible for award unless the Contracting Officer decides to hold discussions, and includes the offeror in the competitive range. Requested information, indicated by the word should, is not mandatory, but missing, incomplete, or ambiguous information may result in a rating of “unacceptable” for that factor.
8. **BASIS FOR CONTRACT AWARD:** This is a best value source selection conducted in accordance with Federal Acquisition Regulation 15.3, Source Selection. The Government anticipates awarding a firm fixed price single award contract as a result of this solicitation. The Government intends to select the best value offer based on a trade-off analysis per FAR 15.101-1, based upon the following evaluation criteria:  1. Technical Construction Management Capability, 2. Past Performance and 3. Cost/Price. This solicitation may result in an award to the technically capable, higher rated, higher priced offer, consistent with the evaluation factors contained herein. The Government may reasonably determine that the technical superiority and/or overall business approach and/or superior present and past performance of the higher priced offer outweighs the cost difference. Technical Construction Management Capability and Past Performance Factors are equal but when combined are significantly more important than price. Consideration is provided based on business size status. To arrive at a source selection decision, the Government will make an assessment of the proposals submitted in response to the evaluation factors and sub factors described below.

**C. EVALUATION FACTORS:**

Factor 1 Technical Construction Management Capability:  Technical Proposal will be evaluated by the SSEB:

Factor 2 Past Performance:  Past Performance information will be evaluated by the SSEB.

Factor 3 Cost/price:  Pricing information will be evaluated by the PCO.

**FACTOR 1 — TECHNICAL CONSTRUCTION MANAGEMENT CAPABILITY:  The contractor’s technical proposal shall address each of the following elements:**

**CONSTRUCTION MANAGEMENT (Corporate Project Experience):** The Offeror shall demonstrate corporate experience with five projects completed within the last five years by contract similar in size and scope to this project.  At least three shall be boiler related in scope.  Scoring will be more favorable the more closely the projects correspond to this project.  In describing project construction experience, provide the following information:

(1)         Project titles, location and detailed description including the building use (Medical Facility, Central Boiler Plant, etc.) and contracting method (design build, design bid construct, CM at risk etc.).

(2)         Project owner and name and telephone number of owner’s contact person.

(3)         Project Prime Contractor and Major Subcontractors and name and telephone number of contact person(s). Note each firm and managing persons (project manager/superintendent/foreman as the case may be) also proposed for this solicitation.

(4)         Project Statistics including start and completion dates (original vs. actual) for design and construction; cost (with brief explanation of what is included in the cost); square footage; foundation type; number of levels; and any awards (prizes) received.  Offeror shall also include at least two boiler related statistics such as type and size of boilers installed on previous projects.

**PROJECT PERSONNEL EXPERIENCE (SPECIALIZED EXPERIENCE AND TECHNICAL COMPETENCE):**  The Offeror shall demonstrate the relevant construction work experience performed within the past 3 years by proposed key project personnel.  In addition, proposed Key Personnel shall meet the following minimum experience, education, training and certification requirements defined below. Biographical data shall include the following:

(1)         Name of individual.

(2)         Company employed by.

(3)         Company position title.

(4)         Years with the company.

(5)         Describe work experience with projects that; were completed within the last three years, were medical facilities, specifically the Department of Veterans Affairs, and the company (by name) they worked for when involved in the project.

(6)         An indication of which (if any) projects submitted under company experience (above) the individual participated in and what the individual’s responsibility was for that project.

(7)         An indication of which other individuals submitted under Project Personnel Experience this individual has worked with and the project they worked on together, noting if that project has been submitted under corporate experience (above).

(8)         Position that the individual will hold in regard to this contract/project team, description of duties and what percentage of the individual’s time would be committed to the project during the construction phases.

(9)         Describe job related educational experience including degrees, certificates etc and granting institutions.  Proposed candidates shall meet the minimum experience, education, training, or certificate requirements defined below.

(10)      Supply biographical data for key personnel for at least the following: (Note if one individual is proposed for more than one position listed):

**Senior Project Manager:**  Proposed candidates shall have a minimum of 5 years experience in construction project management.

**Quality Control Manager:**  Proposed candidates shall have a minimum of 5 years experience as a Quality Control Manager with specialized education/training in quality control.

**Site Superintendent:**  Proposed candidate shall have a minimum 3 years experience in construction site supervision with a high school diploma and be a U.S. citizen.

**Boiler Welders:** Proposed list of candidates shall have a minimum of 3 years experience in ASME Pressure Vessel welding. Must have certification in pipe welding.

**MANAGEMENT APPROACH:**  The Offeror shall provide the following information to demonstrate management approach:

(1)                Project Delivery Philosophy - Include expectation statements concerning:

Describe elements for successful partnering, communication, commitment and conflict resolution.

Provide Quality Assurance/Quality Control Plan.

Provide Project Organizational Chart and Narrative - Include team members submitted under Project Personnel Experience above. Clearly describe the prime responsible firm (or firms if a J/V) and individuals as well as the roles and responsibilities of individuals proposed as consultants and sub-contractors.  Provide a list all consultants and all proposed major subcontractors, including telephone number, address, and name of contact.

(2)                Capability to perform:

Provide the offeror's total bonding capacity, current available bonding capacity and expected available capacity in 2017.

Provide the offeror's current workload and availability of adequate staff  listed under Project Personnel Experience to manage the project.  Include project schedules for current and pending projects, as well as the anticipated impact of this project on those schedules and staffing plans.

**SCHEDULE:** The offeror shall provide a progress schedule in a Gantt format with identification of the Critical Path.  The horizontal axis will be scaled for time beginning with the Notice to Proceed and concluding with contract completion.  The vertical axis will show the milestones and major portions of the contract work.  All schedule items will show a start date and a completion date.  The detailed schedule will indicate specific tasks with dates for each step of the process including:

(1)         Construction mobilization, submittals, lead time, installation, testing, safety testing, commissioning, temporary equipment and roof repair.

(2)         General Project Delivery Schedule and Narrative – Show relationships between construction document development/completion (including require review activities) and construction activities for (at a minimum) utility relocation, excavation, substructure, structure, exterior façade, interior finishes, building systems and site development.

The offeror shall specify how much allowance has been made for bad weather in the schedule, the days of the week and the hours of construction operations during each phase of the work, and the percentage of contract completion that will be achieved at the end of each month of the contract.

**FACTOR 2 — PAST PERFORMANCE:**

(1)           The Government will conduct an in-depth review of contractor’s past performance information.  This review will be based on information provided by offerors via Past Performance Questionnaire “Attachment A” to the solicitation and shall be provided by offerors with their proposals or otherwise provided by references not later than the date and time specified in the solicitation for receipt of proposals.  Part 1 shall be completed by the offeror and Part 2 shall be completed by the offeror's reference.   In order to be considered for award completed past performance questionnaires shall be furnished with the offer or emailed to the designated contract specialist.  If the contractor has no past performance history that is similar in size and scope of the proposed solicitation, the contractor shall note this in his or her proposal.

(2)   The Past Performance Evaluation is accomplished by reviewing aspects of an offeror's present and past performance focusing on relevancy, and quality.  The Government reserves the right to use any and all other sources of information available to assess past performance including but not limited to CPARS, SAMS, PPIRS and FAPIIS.

(3)  For purposes of this evaluation, relevancy is defined as construction work completed or ongoing during the three (3) years prior to the issuance of this solicitation similar to size and scope of the proposed contract.

**FACTOR 3 — COST PROPOSAL:** Offerors must include the cost of the entire project broken down by each item of work, construction milestones, and including both materials and labor division.  Documentation to support the cost, including cost or pricing data and subcontractor quotes, should also be provided.

**SOLICITATION REQUIREMENTS, TERMS, AND CONDITIONS:**

1. Offerors are required to meet all solicitation requirements—terms and conditions, representations and certifications, and technical requirements—in addition to those identified as factors to be eligible for award. Failure to comply with the terms and conditions of the solicitation may result in the offeror being ineligible for award. Offerors must clearly identify any exceptions to the solicitation's terms and conditions and must provide complete supporting rationale.

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

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

(End of Provision)

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

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

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

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

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

(End of Provision)

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

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

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

|  |  |
| --- | --- |
| **Goals for minority participation for each trade** | **Goals for female participation for each trade** |
| 25.2 % | 6.9 % |

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

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

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

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

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

(3) Estimated dollar amount of the subcontract;

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

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

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

(End of Provision)

## 2.4 52.225-10 NOTICE OF BUY AMERICAN REQUIREMENT—CONSTRUCTION MATERIALS (MAY 2014)

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

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

(c) Evaluation of offers.

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

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

(d) Alternate offers.

(1) When an offer includes foreign solicitation in paragraph (b)(2) of the clause at FAR 52.225-9, the offeror also may submit an alternate offer based on use of equivalent domestic construction material.

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

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

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

(ii) May be accepted if revised during negotiations.

(End of Provision)

## 2.5 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 percent of the bid price or , whichever is less.

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

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

(End of Provision)

## 2.6 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:

Hand-Carried/Mailing Address:

Department of Veterans Affairs

VAMC (613)

Kathryn Leatherman, Contracting (90C)

510 Butler Ave, Building 306A

Martinsburg WV 25405

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of Provision)

## 2.7 52.236-27 SITE VISIT (CONSTRUCTION) (FEB 1995)

(a) The clauses at 52.236-2, Differing Site Conditions, and 52.236-3, Site Investigations and Conditions Affecting the Work, will be included in any contract awarded 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 will be held on Thursday, September 21, 2017 at 1:00PM at Huntington VAMC, 1540 Spring Valley Road, Huntington, WV 25704

(End of Provision)

## 2.8 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

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

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

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

(End of Provision)

|  |  |  |
| --- | --- | --- |
| **FAR Number** | **Title** | **Date** |
| 52.204-7 | SYSTEM FOR AWARD MANAGEMENT | OCT 2016 |
| 52.204-16 | COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING | JUL 2016 |
| 52.204-22 | ALTERNATIVE LINE ITEM PROPOSAL | JAN 2017 |
| 52.215-1 | INSTRUCTIONS TO OFFERORS—COMPETITIVE ACQUISITION | JAN 2017 |
| 52.236-28 | PREPARATION OF PROPOSALS—CONSTRUCTION | OCT 1997 |

## 2.9 VAAR 852.215-70 SERVICE-DISABLED VETERAN-OWNED AND VETERAN-OWNED SMALL BUSINESS EVALUATION FACTORS (JUL 2016)(DEVIATION)

(a) In an effort to achieve socioeconomic small business goals, depending on the evaluation factors included in the solicitation, VA shall evaluate offerors based on their service-disabled veteran-owned or veteran-owned small business status and their proposed use of eligible service-disabled veteran-owned small businesses and veteran-owned small businesses as subcontractors.

(b) Eligible service-disabled veteran-owned offerors will receive full credit, and offerors qualifying as veteran-owned small businesses will receive partial credit for the Service-Disabled Veteran-Owned and Veteran-owned Small Business Status evaluation factor. To receive credit, an offeror must be registered and verified in Vendor Information Pages (VIP) database (<https://www.vip.vetbiz.gov>).

(c) Non-veteran offerors proposing to use service-disabled veteran-owned small businesses or veteran-owned small businesses as subcontractors will receive some consideration under this evaluation factor. Offerors must state in their proposals the names of the SDVOSBs and VOSBs with whom they intend to subcontract and provide a brief description of the proposed subcontracts and the approximate dollar values of the proposed subcontracts. In addition, the proposed subcontractors must be registered and verified in the VetBiz.gov VIP database (<https://www.vip.vetbiz.gov>).

(End of Provision)

## 2.10 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)

## 2.11 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)

## 2.12 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)

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

Deputy Assistant Secretary for Acquisition and Logistics,

Risk Management Team, Department of Veterans Affairs

810 Vermont Avenue, N.W.

Washington, DC 20420

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

Director, Office of Construction and Facilities Management

811 Vermont Avenue, N.W.

Washington, DC 20420

## 2.13 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 52.203-98 PROHIBITION ON CONTRACTING WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS—REPRESENTATION (DEVIATION) (FEB 2015)

(a) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (Pub. L. 113-235), Government agencies are not permitted to use funds appropriated (or otherwise made available) under that or any other Act for contracts with an entity that requires employees or subcontractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contactors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

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

(c) *Representation*. By submission of its offer, the Offeror represents that it does not require employees or subcontractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(End of Provision)

## 3.2 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2017)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 236210.

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

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

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

(2) If the provision at 52.204-7 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:

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

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

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

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

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

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

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

[](A) Basic.

[](B) Alternate I.

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

(d) The offeror has completed the annual representations and certifications electronically via the SAM 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)

## 3.3 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)

# GENERAL CONDITIONS

## 4.1 52.203-99 PROHIBITION ON CONTRACTING WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS (DEVIATION) (FEB 2015)

(a) The Contractor shall not require employees or contractors seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(b) The contractor shall notify employees that the prohibitions and restrictions of any internal confidentiality agreements covered by this clause are no longer in effect.

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

(d)(1) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (Pub. L. 113-235), use of funds appropriated (or otherwise made available) under that or any other Act may be prohibited, if the Government determines that the Contractor is not in compliance with the provisions of this clause.

(2) The Government may seek any available remedies in the event the contractor fails to comply with the provisions of this clause.

(End of Clause)

## 4.2 52.204-19 INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS (DEC 2014)

The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of Clause)

## 4.3 52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)

The Contractor shall be required to (a) commence work under this contract within 15 calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than 90 days after receipt of award. The time stated for completion shall include final cleanup of the premises.

(End of Clause)

## 4.4 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 236210 assigned to contract number .

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

(End of Clause)

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

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

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

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

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

(End of Clause)

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

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

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

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

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

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

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

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

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

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

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

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

(f) Subcontracts.

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

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

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

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

(End of Clause)

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

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

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

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

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

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

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

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

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

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

"Cost of components" means—

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

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

"Domestic construction material" means—

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

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

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

(ii) The construction material is a COTS item.

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

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

(b) Domestic preference.

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

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

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

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

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

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

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

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

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

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

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

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

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

[Include other applicable supporting information.]

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

(End of Clause)

## 4.8 52.244-2 SUBCONTRACTS (OCT 2010)

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

"Approved purchasing system" means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

"Consent to subcontract" means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

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

(b) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (c) or (d) of this clause.

(c) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that—

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds—

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts:

(e)(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate certified cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting—

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason certified cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's certified cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (b), (c), or (d) of this clause.

(f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination—

(1) Of the acceptability of any subcontract terms or conditions;

(2) Of the allowability of any cost under this contract; or

(3) To relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(h) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(i) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(j) Paragraphs (c) and (e) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

(End of Clause)

## 4.9 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

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

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

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

(End of Clause)

|  |  |  |  |
| --- | --- | --- | --- |
|  | **FAR Number** | **Title** | **Date** |
|  | 52.202-1 | DEFINITIONS | NOV 2013 |
|  | 52.203-3 | GRATUITIES | APR 1984 |
|  | 52.203-5 | COVENANT AGAINST CONTINGENT FEES | MAY 2014 |
|  | 52.203-6 | RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT | SEP 2006 |
|  | 52.203-7 | ANTI-KICKBACK PROCEDURES | MAY 2014 |
|  | 52.203-8 | CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY | MAY 2014 |
|  | 52.203-10 | PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY | MAY 2014 |
|  | 52.203-12 | LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS | OCT 2010 |
|  | 52.203-17 | CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS | APR 2014 |
|  | 52.203-19 | PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS | JAN 2017 |
|  | 52.204-4 | PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER | MAY 2011 |
|  | 52.204-9 | PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL | JAN 2011 |
|  | 52.204-10 | REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS | OCT 2016 |
|  | 52.204-13 | SYSTEM FOR AWARD MANAGEMENT MAINTENANCE | OCT 2016 |
|  | 52.204-18 | COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE | JUL 2016 |
|  | 52.209-6 | PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT | OCT 2015 |
|  | 52.209-10 | PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS | NOV 2015 |
|  | 52.215-2 | AUDIT AND RECORDS—NEGOTIATION | OCT 2010 |
|  | 52.219-4 | NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS | OCT 2014 |
|  | 52.219-8 | UTILIZATION OF SMALL BUSINESS CONCERNS | NOV 2016 |
|  | 52.222-3 | CONVICT LABOR | JUN 2003 |
|  | 52.222-6 | CONSTRUCTION WAGE RATE REQUIREMENTS | MAY 2014 |
|  | 52.222-7 | WITHHOLDING OF FUNDS | MAY 2014 |
|  | 52.222-8 | PAYROLLS AND BASIC RECORDS | MAY 2014 |
|  | 52.222-9 | APPRENTICES AND TRAINEES | JUL 2005 |
|  | 52.222-10 | COMPLIANCE WITH COPELAND ACT REQUIREMENTS | FEB 1988 |
|  | 52.222-11 | SUBCONTRACTS (LABOR STANDARDS) | MAY 2014 |
|  | 52.222-12 | CONTRACT TERMINATION—DEBARMENT | MAY 2014 |
|  | 52.222-13 | COMPLIANCE WITH CONSTRUCTION WAGE RATE REQUIREMENTS AND RELATED REGULATIONS | MAY 2014 |
|  | 52.222-14 | DISPUTES CONCERNING LABOR STANDARDS | FEB 1988 |
|  | 52.222-15 | CERTIFICATION OF ELIGIBILITY | MAY 2014 |
|  | 52.222-21 | PROHIBITION OF SEGREGATED FACILITIES | APR 2015 |
|  | 52.222-26 | EQUAL OPPORTUNITY | SEP 2016 |
|  | 52.222-27 | AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION | APR 2015 |
|  | 52.222-36 | EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES | JUL 2014 |
|  | 52.222-37 | EMPLOYMENT REPORTS ON VETERANS | FEB 2016 |
|  | 52.222-50 | COMBATING TRAFFICKING IN PERSONS | MAR 2015 |
|  | 52.222-54 | EMPLOYMENT ELIGIBILITY VERIFICATION | OCT 2015 |
|  | 52.222-55 | MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 | DEC 2015 |
|  | 52.222-62 | PAID SICK LEAVE UNDER EXECUTIVE ORDER 13706 | JAN 2017 |
|  | 52.223-5 | POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION | MAY 2011 |
|  | 52.223-6 | DRUG-FREE WORKPLACE | MAY 2001 |
|  | 52.223-18 | ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING | AUG 2011 |
|  | 52.223-21 | FOAMS | JUN 2016 |
|  | 52.225-13 | RESTRICTIONS ON CERTAIN FOREIGN PURCHASES | JUN 2008 |
|  | 52.227-1 | AUTHORIZATION AND CONSENT | DEC 2007 |
|  | 52.227-2 | NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT | DEC 2007 |
|  | 52.227-4 | PATENT INDEMNITY—CONSTRUCTION CONTRACTS | DEC 2007 |
|  | 52.228-2 | ADDITIONAL BOND SECURITY | OCT 1997 |
|  | 52.228-5 | INSURANCE—WORK ON A GOVERNMENT INSTALLATION | JAN 1997 |
|  | 52.228-11 | PLEDGES OF ASSETS | JAN 2012 |
|  | 52.228-12 | PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS | MAY 2014 |
|  | 52.228-14 | IRREVOCABLE LETTER OF CREDIT | NOV 2014 |
|  | 52.228-15 | PERFORMANCE AND PAYMENT BONDS—CONSTRUCTION | OCT 2010 |
|  | 52.229-3 | FEDERAL, STATE, AND LOCAL TAXES | FEB 2013 |
|  | 52.232-5 | PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS | MAY 2014 |
|  | 52.232-17 | INTEREST | MAY 2014 |
|  | 52.232-23 | ASSIGNMENT OF CLAIMS | MAY 2014 |
|  | 52.232-27 | PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS | JAN 2017 |
|  | 52.232-34 | PAYMENT BY ELECTRONIC FUNDS TRANSFER—OTHER THAN SYSTEM FOR AWARD MANAGEMENT | JUL 2013 |
|  | 52.232-39 | UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS | JUN 2013 |
|  | 52.232-40 | PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS | DEC 2013 |
|  | 52.233-1 | DISPUTES ALTERNATE I (DEC 1991) | MAY 2014 |
|  | 52.233-3 | PROTEST AFTER AWARD | AUG 1996 |
|  | 52.233-4 | APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM | OCT 2004 |
|  | 52.236-2 | DIFFERING SITE CONDITIONS | APR 1984 |
|  | 52.236-3 | SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK | APR 1984 |
|  | 52.236-5 | MATERIAL AND WORKMANSHIP | APR 1984 |
|  | 52.236-6 | SUPERINTENDENCE BY THE CONTRACTOR | APR 1984 |
|  | 52.236-7 | PERMITS AND RESPONSIBILITIES | NOV 1991 |
|  | 52.236-8 | OTHER CONTRACTS | APR 1984 |
|  | 52.236-9 | PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS | APR 1984 |
|  | 52.236-10 | OPERATIONS AND STORAGE AREAS | APR 1984 |
|  | 52.236-11 | USE AND POSSESSION PRIOR TO COMPLETION | APR 1984 |
|  | 52.236-12 | CLEANING UP | APR 1984 |
|  | 52.236-13 | ACCIDENT PREVENTION | NOV 1991 |
|  | 52.236-15 | SCHEDULES FOR CONSTRUCTION CONTRACTS | APR 1984 |
|  | 52.236-17 | LAYOUT OF WORK | APR 1984 |
|  | 52.236-21 | SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION | FEB 1997 |
|  | 52.236-26 | PRECONSTRUCTION CONFERENCE | FEB 1995 |
|  | 52.242-13 | BANKRUPTCY | JUL 1995 |
|  | 52.242-14 | SUSPENSION OF WORK | APR 1984 |
|  | 52.243-4 | CHANGES | JUN 2007 |
|  | 52.244-5 | COMPETITION IN SUBCONTRACTING | DEC 1996 |
|  | 52.244-6 | SUBCONTRACTS FOR COMMERCIAL ITEMS | JAN 2017 |
|  | 52.246-21 | WARRANTY OF CONSTRUCTION | MAR 1994 |
|  | 52.248-3 | VALUE ENGINEERING—CONSTRUCTION | OCT 2015 |
|  | 52.249-2 | TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) ALTERNATE I (SEPT 1996) | APR 2012 |
|  | 52.249-10 | DEFAULT (FIXED-PRICE CONSTRUCTION) | APR 1984 |
|  | 52.253-1 | COMPUTER GENERATED FORMS | JAN 1991 |

## 4.10 VAAR 852.203-70 COMMERCIAL ADVERTISING (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)

## 4.11 VAAR 852.215-71 EVALUATION FACTOR COMMITMENTS (DEC 2009)

The offeror agrees, if awarded a contract, to use the service-disabled veteran-owned small businesses or veteran-owned small businesses proposed as subcontractors in accordance with 852.215-70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors, or to substitute one or more service-disabled veteran-owned small businesses or veteran-owned small businesses for subcontract work of the same or similar value.

(End of Clause)

## 4.12 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)

## 4.13 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)

## 4.14 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)

## 4.15 VAAR 852.236-72 PERFORMANCE OF WORK BY THE CONTRACTOR (JUL 2002)

The clause entitled "Performance of Work by the Contractor" in FAR 52.236-1 is supplemented as follows:

(a) Contract work accomplished on the site by laborers, mechanics, and foremen/forewomen on the contractor's payroll and under his/her direct supervision shall be included in establishing the percent of work to be performed by the contractor. Cost of material and equipment installed by such labor may be included. The work by the contractor's executive, supervisory and clerical forces shall be excluded in establishing compliance with the requirements of this clause.

(b) The contractor shall submit, simultaneously with the schedule of costs required by the Payments Under Fixed-Price Construction Contracts clause of the contract, a statement designating the branch or branches of contract work to be performed with his/her forces. The approved schedule of costs will be used in determining the value of a branch or branches, or portions thereof, of the work for the purpose of this article.

(c) If, during the progress of work hereunder, the contractor requests a change in the branch or branches of the work to be performed by his/her forces and the contracting officer determines it to be in the best interest of the Government, the contracting officer may, at his/her discretion, authorize a change in such branch or branches of said work. Nothing contained herein shall permit a reduction in the percentage of work to be performed by the contractor with his/her forces, it being expressly understood that this is a contract requirement without right or privilege of reduction.

(d) In the event the contractor fails or refuses to meet the requirement of the FAR clause at 52.236-1, it is expressly agreed that the contract price will be reduced by 15 percent of the value of that portion of the percentage requirement that is accomplished by others. For the purpose of this clause, it is agreed that 15 percent is an acceptable estimate of the contractor's overhead and profit, or mark-up, on that portion of the work which the contractor fails or refuses to perform, with his/her own forces, in accordance with the FAR clause at 52.236-1.

(End of Clause)

## 4.16 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)

## 4.17 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)

## 4.18 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)

## 4.19 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)

## 4.20 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)

## 4.21 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)

## 4.22 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)

## 4.23 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)

## 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)

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

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

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

(End of Clause)

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

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

(End of Clause)

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

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

(End of Clause)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of Clause)

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

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

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

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

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

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

(End of Clause)

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

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

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

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

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

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

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

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

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

(End of Clause)

## 4.30 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)

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

This solicitation includes FAR 52.219-4 Notice of Price Evaluation Preference for HubZone Small Business Concerns. 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 inassessing 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.

## 4.32 SUBCONTRACTING COMMITMENTS--MONITORING AND COMPLIANCE (JUN 2011)

This solicitation includes VAAR 852.215-70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors, and VAAR 852.215-71, Evaluation Factor Commitments. Accordingly, any contract resulting from this solicitation will include these clauses. The contractor is advised in performing contract administration functions, the CO may use the services of a support contractor(s) to assist in assessing contractor compliance with the subcontracting commitments incorporated into the contract. To that end, the support contractor(s) may require access to the contractor's business records or other proprietary data to review such business records regarding contract 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 compliance with the subcontracting commitments.

General Decision Number: WV170048 07/28/2017 WV48

Superseded General Decision Number: WV20160048

State: West Virginia

Construction Type: Building

County: Wayne County in West Virginia.

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.

Modification Number Publication Date

0 01/06/2017

1 01/20/2017

2 03/03/2017

3 06/23/2017

4 07/21/2017

5 07/28/2017

ASBE0002-002 08/01/2016

Rates Fringes

ASBESTOS WORKER/HEAT & FROST

INSULATOR........................$ 39.28 23.65

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BOIL0667-005 01/01/2016

Rates Fringes

BOILERMAKER......................$ 37.63 23.53

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BRWV0005-002 06/01/2016

Rates Fringes

BRICK POINTER/CAULKER/CLEANER....$ 29.50 22.69

BRICKLAYER.......................$ 29.50 22.69

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BRWV0005-005 06/01/2016

Rates Fringes

MASON - STONE....................$ 29.50 22.69

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BRWV0005-006 06/01/2016

Rates Fringes

TILE SETTER......................$ 29.50 22.69

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BRWV0015-014 06/01/2016

Rates Fringes

TILE FINISHER....................$ 22.83 18.47

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CARP0302-004 06/01/2016

Rates Fringes

CARPENTER (Including Drywall

Hanging, Form Work, and Floor

Laying - Carpet, Hardwood,

Resilient and Vinyl).............$ 28.53 22.60

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ELEC0317-003 06/01/2017

Rates Fringes

ELECTRICIAN......................$ 33.31 24.11

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ENGI0132-010 12/01/2015

Rates Fringes

POWER EQUIPMENT OPERATOR:

GROUP 1.....................$ 36.36 19.23

GROUP 2.....................$ 36.01 19.23

GROUP 3.....................$ 35.01 19.23

GROUP 4.....................$ 24.51 19.23

GROUP 1: All Friction Cranes, Tower Cranes and all Cranes

with 180 ft. or more of boom including mast and jibs or

lifting capacity of 100 tons or more and hoists with 30,000

pound line pull or more, Mechanics with tools with 3/4 inch

drive and below

GROUP 2: Operating Cranes and Tower Cranes with a lifting

capacity of 15 tons and over

GROUP 3: Backhoe, Bulldozer, Excavator, Forklift, Non-Farm

Type Tractor, all other Cranes, all other Mechanics

GROUP 4: Bobcat/Skid Steer/Skid Loader, Farm Type Tractor,

Loader, Roller

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IRON0549-006 12/01/2015

Rates Fringes

IRONWORKER (Ornamental)..........$ 38.63 17.84

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IRON0769-009 06/01/2017

Rates Fringes

IRONWORKER (Reinforcing and

Structural)

ZONE 1:

0-10 miles from Union Hall.$ 31.33 23.97

ZONE 2:

10-50 miles from Union

Hall.......................$ 31.73 23.97

ZONE 3:

50 miles & over from

Union Hall.................$ 33.33 23.97

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LABO0543-006 06/01/2016

Rates Fringes

LABORER..........................$ 25.41 16.50

LABORER CLASSIFICATIONS

Carpenter Tender, Common or General, Concrete Saw (Hand

Held/Walk Behind), Concrete Worker, Demolition, Grade

Checker, Jack Hammer, Landscape, Mason Tender-Brick, Mason

Tender-Cement/Concrete, Mortar Mixer, Motorized Buggy

Operator, Pipelayer, Scaffold Builder (Brick and Masonry),

Skytrak Forklift Operator, Tamper (Hand Held), Water Boy,

Wacker Roller Operator

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PAIN0970-008 12/01/2016

Rates Fringes

PAINTER (Drywall

Finishing/Taping; Brush,

Roller and Spray)................$ 27.47 16.15

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PAIN1195-002 12/01/2015

Rates Fringes

GLAZIER..........................$ 30.00 10.87

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PLAS0926-006 12/01/2015

Rates Fringes

CEMENT MASON/CONCRETE FINISHER...$ 29.01 17.99

PLASTERER........................$ 29.99 18.12

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\* PLUM0083-004 07/01/2017

Rates Fringes

PIPEFITTER.......................$ 32.16 31.53

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PLUM0565-004 07/01/2016

Rates Fringes

PLUMBER..........................$ 39.25 21.71

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ROOF0034-003 05/01/2007

Rates Fringes

ROOFER...........................$ 19.35 7.75

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SHEE0024-022 06/01/2015

Rates Fringes

SHEET METAL WORKER (Includes

HVAC Duct Installation)..........$ 27.71 23.18

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TEAM0175-005 10/01/2016

Rates Fringes

Truck drivers:

GROUP 2.....................$ 27.70 15.78

GROUP 3.....................$ 27.85 15.78

TRUCK DRIVER CLASSIFICATIONS

GROUP 2 - Dump Truck (Up to 5 cu. yds.), Water Tank Truck

(Straight)

GROUP 3 - Dump Truck (5 cu. yds. & over), Tractor Haul Truck,

Water Tank Truck (Semi)

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\* UAVG-WV-0026 01/01/2016

Rates Fringes

LABORER (Power Tool Operator)....$ 24.03 16.13

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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.

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

See attached document: Specifications.

See attached document: Drawing Part 1 R.

See attached document: Drawing Part 2.

See attached document: Attachment 1 VSC Security Request Packet Complete Packet APRIL 2012.

See attached document: PAST PERFORMANCE QUESTIONNAIRE BEST VALUE CONSTRUCTION (3).