

<b>SOLICITATION, OFFER, AND AWARD</b> (Construction, Alteration, or Repair)	1. SOLICITATION NUMBER	2. TYPE OF SOLICITATION	3. DATE ISSUED	PAGE OF PAGES
	36C24425B0012	<input checked="" type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)		1 63

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

4. CONTRACT NUMBER		5. REQUISITION/PURCHASE REQUEST NUMBER	6. PROJECT NUMBER 646-23-405
7. ISSUED BY Department of Veterans Affairs Network Contracting Office 4	CODE 00244	8. ADDRESS OFFER TO See attached delivery schedule	
9. FOR INFORMATION CALL:	a. NAME John Mignogna	b. TELEPHONE NUMBER (Include area code) (NO COLLECT CALLS) 412-822-3139	

#### SOLICITATION

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

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

The purpose of this Invitation for Bid (IFB) is to procure construction services for the Pittsburgh VA Medical Center. The selected offeror shall provide all management, supervisions, labor, transportation, materials, tools, and equipment necessary for the construction of project 646-23-405 UD Upgrade 2A130/7W139 Medical Air Systems per the Statemen of Work. The project shall be completed in accordance with all current VA standards at the time of award.

Wage Determination PA20250001 dated 03/28/2025 applies to this solicitation. The Contractor shall be responsible for the correct title of classification of workers and compliance with applicable wage and hour laws.

This project is being solicited as a total Service Disabled Veteran Owned Small Business set-aside.

The applicable NAICS code is 236220 - Commercial and Institutional Building Construction. The Small Business size standard is \$45 million. In accordance with FAR 36.204, The magnitude of construction is between \$500,000.00 and \$1,000,000.00.

A site visit will be held on 5/28/2025 at 1:00 PM ET. Interested parties shall meet in the main lobby of the Pittsburgh VAMC, located at University Drive. Pittsburgh PA, 15240.

Requests for Information (RFI) must be submitted via email to John.Mignogna@va.gov by 6/4/2025 at 4:00 PM. Responses will be posted on SAM.gov as an amendment to the solicitation.

A virtual bid opening will take place on 6/23/2025 at 2:00 PM ET. All bids MUST be received by this time, or they will not be accepted. Bids should be sent via email to the Contract Specialist at John.Mignogna@va.gov. The link to attend the bid opening is included in the solicitation below.

Award will be made to the responsive, responsible bidder, whose bid, in conformance with the solicitation, results in the lowest price.

VAAR Clause 852.219-75 MUST be signed and included with the bid or offerors will be deemed ineligible for award.

11. The Contractor shall begin performance within <u>10</u> calendar days and complete it within <u>60</u> calendar days after receiving <input type="checkbox"/> award, <input checked="" type="checkbox"/> notice to proceed. This performance period is <input checked="" type="checkbox"/> mandatory <input type="checkbox"/> negotiable. (See <u>52.211-10</u> ).	
12a. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES," indicate within how many calendar days after award in Item 12B.) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	12b. CALENDAR DAYS 10

#### 13. ADDITIONAL SOLICITATION REQUIREMENTS:

- Sealed offers in original and one (1) copies to perform the work required are due at the place specified in Item 8 by 2:00pm EST (hour) local time 6/23/2025 (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, the date and time offers are due. An offer guarantee ☒ is, ☐ is not required.
- All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.
- Offers providing less than 180 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

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

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

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

AMOUNTS

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

**19. ACKNOWLEDGMENT OF AMENDMENTS**

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

AMENDMENT NUMBER										
DATE.										

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

20b. SIGNATURE

20c. OFFER DATE

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

21. ITEMS ACCEPTED:

0001:

22. AMOUNT

23. ACCOUNTING AND APPROPRIATION DATA

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

ITEM

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

26. ADMINISTERED BY

00244

Department of Veterans Affairs  
Network Contracting Office 4

27. PAYMENT WILL BE MADE BY

Austin Payment Center  
Department of Veterans Affairs

PO Box 149971  
Austin TX 78714-9971

PHONE: (877) 353-9791

FAX: (512) 460-5429

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

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

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

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

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

30b. SIGNATURE

30c. DATE

31b. UNITED STATES OF AMERICA

31c. AWARD DATE

BY

## A.3 PRICE / COST SCHEDULE

### ITEM INFORMATION

ITEM NUMBER	DESCRIPTION OF SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	<p>Provide all management, supervision, labor, transportation, materials, tools, and equipment necessary for the construction of the project described here in other specific tasks as further defined by this request for proposal (RFP) of Project 646-23-405 UD Upgrade 2A130/7W139 Medical Air Systems per the construction statement of work. Project shall be completed in accordance with all current VA standards at the time of award.</p> <p>Period of Performance is 180 days            PRINCIPAL NAICS CODE: 236220 – Commercial and Institutional Building Construction            PRODUCT/SERVICE CODE: Y1DA-CONSTRUCTION OF HOSPITALS AND INFIRMARIES</p>	1.00	JB	\$ _____	\$ _____
GRAND TOTAL					\$ _____

### ACCOUNTING AND APPROPRIATION DATA

ACRN	APPROPRIATION	REQUISITION NUMBER	AMOUNT
1	TBD	TBD	\$ _____

## A.4 DELIVERY SCHEDULE

ITEM NUMBER	SHIPPING INFORMATION	QUANTITY	DELIVERY DATE
0001	Department of Veterans Affairs Pittsburgh VA Medical Center University Drive Pittsburgh, PA 15240 USA	1	180 days after NTP

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## INFORMATION REGARDING BIDDING MATERIAL, BID GUARANTEE AND BONDS

1. Bidding materials consisting of drawings, specifications and contract forms are provided within the attached documents. Invitation for Bid (IFB) number 36C24425B0012 will contain plans, specifications, and amendments.
2. A **Bid Guarantee** is required for this solicitation. A bid guarantee is required in an amount not less than **20 percent** of the bid price but shall not exceed \$3,000,000.00. The **Bid Guarantee** is to be executed on a SF 24. Failure to furnish the required bid guarantee on the proper form and amount, by the time set for the bid due date, 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.
3. The bidder to whom award is made will be required to furnish two (2) bonds, a **Payment Bond** to be executed on the SF 25A and a **Performance Bond** to be executed on the proper SF 25, each in the penal sum as noted in the General Conditions of the Specification. Copies of the SF 25 and SF 25A can be obtained upon application to the issuing office.
4. Disclosure of the magnitude of construction: **\$500,000.00 to \$1,000,000.00.**
5. Bids shall be valid for 180 calendar days for acceptance. Any bid fewer than 180 calendar days will not be considered and will be rejected as non-responsive.
6. **Site Visit:** A formal site visit is scheduled for this solicitation for **5/28/2025 at 1:00 PM.**
7. **Technical Questions:** Questions of a technical nature must be provided in writing and shall be submitted by prospective bidders to attention: John Mignogna. Questions shall be submitted only via e-mail to: John.Mignogna@va.gov. The subject line should read: **36C24425B0012 - Technical Questions.** Oral questions of a technical nature are not acceptable, due to the possibility of misunderstanding or misinterpretation. All questions must be received no later than **4:00 PM local time, 6/4/2025.** No telephone request will be honored. Any questions received after this time will NOT be considered and a response will NOT be given. All technical questions and Government responses will be posted on SAM – Contracting Opportunities in an amendment to the solicitation.
8. All bidders must be registered in the System Award Management System (SAM) data base at time of bid submittal. Bidders must also be certified as a Service-Disabled Veteran-Owned Small Business (SDVOSB) by the Small Business Administration (SBA) at <https://veterans.certify.sba.gov/>. Any bidder not SBA or SAM verified at time of bid submittal will be disqualified and bid will be rejected.

9. Bids shall contain the following information:
- Completed Standard Form 1442 and any amendments.
  - Bid Guarantee
  - All completed Representation and Certifications
  - Signed VAAR Clause 852.219-75 VA Notice of Limitations on Subcontracting – Certificate of Compliance for Services and Construction

10. All bids shall be emailed to the following:

Attn: John Mignogna

Email: John.Mignogna@va.gov

Subject Line: 36C24425B0012 No. 646-23-405 UD Upgrade 2A130/7W139 Medical Air Systems

## **11. Bid Opening**

Bid opening will take place on 6/23/2025 at 2:00 PM local time. This will be a virtual bid opening via Microsoft Teams. Please use the links below to participate in the opening at the specified date and time.

---

**Microsoft Teams [Need help?](#)**

**[Join the meeting now](#)**

**Meeting ID: 254 386 561 937 5**

**Passcode: Zp6Yw3ko**

---

**Dial in by phone**

**[+1 872-701-0185,,28571330#](#) United States, Chicago**

**[Find a local number](#)**

**Phone conference ID: 285 713 30#**

**For organizers: [Meeting options](#) | [Reset dial-in PIN](#)**

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## **INSTRUCTIONS, CONDITIONS AND OTHER STATEMENTS TO BIDDERS/OFFERORS**

### **2.1 52.201-1 ACQUISITION 360: VOLUNTARY SURVEY (SEP 2023)**

(a) All actual and potential offerors are encouraged to provide feedback on the preaward and debriefing processes, as applicable. Feedback may be provided to agencies up to 45 days after award. The feedback is anonymous, unless the participant self-identifies in the survey. Actual and potential offerors can participate in the survey by selecting the following link: <https://www.acquisition.gov/360>.

(b) The Contracting Officer will not review the information provided until after contract award and will not consider it in the award decision. The survey is voluntary and does not convey any protections, rights, or grounds for protest. It creates a way for actual and potential offerors to provide the Government constructive feedback about the preaward and debriefing processes, as applicable, used for a specific acquisition.

(End of Clause)

### **2.2 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)

### **2.3 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)



## 2.4 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 20 percent of the bid price or \$3,000,000.00, whichever is less.

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

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

(End of Provision)

## **2.6 52.228-17 INDIVIDUAL SURETY—PLEDGE OF ASSETS (BID GUARANTEE) (FEB 2021)**

(a) Offerors shall obtain from each person acting as an individual surety on a bid guarantee—

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

(2) Standard Form 28, Affidavit of Individual Surety.

(b) The Offeror shall include with its offer the information required at paragraph (a) of this provision within the timeframe specified in the provision at FAR 52.228–1, Bid Guarantee, or as otherwise established by the Contracting Officer.

(c) The Contracting Officer may release the security interest on the individual surety's assets in support of a bid guarantee based upon evidence that the offer supported by the individual surety will not result in contract award.

(End of Provision)

## **2.7 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 Address:

Network Contracting Office 04

H. John Heinz III VAMC  
1010 Delafield Rd  
Pittsburgh, PA 15240

Mailing Address:

Same as above

(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)

## **2.8 52.236-27 SITE VISIT (CONSTRUCTION) (FEB 1995) ALTERNATE I (FEB 1995)**

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

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

5/28/2025 at 1:00 PM

(c) Participants will meet at—

1st Floor Atrium Lobby - Pittsburgh VA Medical Center

(End of Provision)

## 2.9 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

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

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

(End of Provision)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
52.204-7	SYSTEM FOR AWARD MANAGEMENT	NOV 2024
52.204-16	COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING	AUG 2020
52.204-22	ALTERNATIVE LINE ITEM PROPOSAL	JAN 2017
52.214-3	AMENDMENTS TO INVITATIONS FOR BIDS	DEC 2016
52.214-4	FALSE STATEMENTS IN BIDS	APR 1984
52.214-5	SUBMISSION OF BIDS	DEC 2016
52.214-6	EXPLANATION TO PROSPECTIVE BIDDERS	APR 1984
52.214-7	LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS	NOV 1999
52.214-18	PREPARATION OF BIDS—CONSTRUCTION	APR 1984
52.214-19	CONTRACT AWARD—SEALED BIDDING—CONSTRUCTION	AUG 1996
52.214-34	SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE	APR 1991
52.214-35	SUBMISSION OF OFFERS IN U.S. CURRENCY	APR 1991

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

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

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

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

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

(c) Bidders/offers 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)

## **2.11 VAAR 852.233-71 ALTERNATE PROTEST PROCEDURE (OCT 2018)**

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

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

(End of Provision)

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

Deputy Assistant Secretary for Acquisition and Logistics,  
Risk Management Team, Department of Veterans Affairs  
810 Vermont Avenue, N.W.  
Washington, DC 20420

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

Director, Office of Construction and Facilities Management  
811 Vermont Avenue, N.W.  
Washington, DC 20420

## **2.12 VAAR 852.236-92 NOTICE TO BIDDERS—ADDITIVE OR DEDUCTIVE BID LINE ITEMS (APR 2019)**

(a) Additive or deductive line items in the bid schedule shall be evaluated to determine the low offeror and the items to be awarded. The evaluation shall be made as follows—

(1) Prior to the opening of bids, the Government will determine the amount of funds available for the project.

(2) The low bid shall be the Bidder that—

(i) Is otherwise eligible for award; and

(ii) Offers the lowest aggregate amount for the first or base line item, plus or minus (in the order stated in the list of priorities in the bid schedule) those additive or deductive line items that provide the most features within the funds determined available.

(3) All bids shall be evaluated on the basis of the same additive or deductive line items.

(i) If adding another item from the bid schedule list of priorities would make the award exceed the available funds for all offerors, the Contracting Officer will skip that item and go to the next item from the bid schedule of priorities; and

(ii) Add that next item if an award may be made that includes that line item and is within the available funds.

(b) The Contracting Officer will use the list of priorities in the bid schedule only to determine the low offeror. After determining the low offeror, an award may be made on any combination of items if—

(1) It is in the best interest of the Government;

(2) Funds are available at the time of award; and

(3) The low offeror's price for the combination to be awarded is less than the price offered by any other responsive, responsible offeror.

(c) Example: "The amount available is \$100,000. Offeror A's base bid and four additives (in the order stated in the list of priorities in the bid schedule) are \$85,000, \$10,000, \$8,000, \$6,000, and \$4,000. Offeror B's base bid and four additives are \$80,000, \$16,000, \$9,000, \$7,000, and \$4,000. Offeror A is the low offeror. The aggregate amount of offeror A's bid for purposes of award would be \$99,000, which includes a base bid plus the first and fourth additives. The second and third additives were skipped because each of them would cause the aggregate bid to exceed \$100,000."

(End of Clause)

## REPRESENTATIONS AND CERTIFICATIONS

*System updates may lag policy updates. The System for Award Management (SAM) may continue to require entities to complete representations based on provisions that are not included in agency solicitations. Examples include 52.222-25, Affirmative Action Compliance, and paragraph (d) of 52.212-3, Offeror Representations and Certifications—Commercial Products and Commercial Services. Contracting officers will not consider these representations when making award decisions or enforce requirements. Entities are not required to, nor are they able to, update their entity registration to remove these representations in SAM.”*

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

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

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

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

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

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

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

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

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

☐ (i) Paragraph (d) applies.

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

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

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

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

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

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

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

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

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

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

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

(B) Exceed the simplified acquisition threshold; and

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

☐ (vi) 52.227-6, Royalty Information.

☐ (A) Basic.

☐ (B) Alternate I.

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

(d) The Offeror has completed the annual representations and certifications electronically in SAM accessed through <https://www.sam.gov>. After reviewing the SAM information, the Offeror verifies by submission of the offer that the representations and certifications currently posted

electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause #	Title	Date	Change

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

(End of Provision)

### 3.2 52.204-24 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021)

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it “does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument” in paragraph (c)(1) in the provision at 52.204–26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at 52.212–3, Offeror Representations and Certifications—Commercial Products and Commercial Services. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it “does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services” in paragraph (c)(2) of the provision at 52.204–26, or in paragraph (v)(2)(ii) of the provision at 52.212–3.

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

*Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component* have the meanings provided in the clause 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition.* (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services.”

(d) *Representations.* The Offeror represents that—

(1) It ☐ will, ☐ will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds “will” in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It ☐ does, ☐ does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds “does” in paragraph (d)(2) of this section.

(e) *Disclosures.* (1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded “will” in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded “does” in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(End of Provision)

### 3.3 52.204-26 COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES—REPRESENTATION (OCT 2020)

(a) *Definitions.* As used in this provision, “covered telecommunications equipment or services” and “reasonable inquiry” have the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services”.

(c) *Representations.* (1) The Offeror represents that it [ ] does, [ ] does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(2) After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it [ ] does, [ ] does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(End of Provision)

### 3.4 52.204-29 FEDERAL ACQUISITION SUPPLY CHAIN SECURITY ACT ORDERS—REPRESENTATION AND DISCLOSURES (DEC 2023)

(a) *Definitions.* As used in this provision, *Covered article*, *FASCSA order*, *Intelligence community*, *National security system*, *Reasonable inquiry*, *Sensitive compartmented information*, *Sensitive compartmented information system*, and *Source* have the meaning provided in the clause 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition.

(b) *Prohibition.* Contractors are prohibited from providing or using as part of the performance of the contract any covered article, or any products or services produced or provided by a source, if the prohibition is set out in an applicable Federal Acquisition Supply Chain Security Act (FASCSA) order, as described in paragraph (b)(1) of FAR 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition.

(c) *Procedures.* (1) The Offeror shall search for the phrase “FASCSA order” in the System for Award Management (SAM) (<https://www.sam.gov>) for any covered article, or any products or services produced or provided by a source, if there is an applicable FASCSA order described in paragraph (b)(1) of FAR 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition.

(2) The Offeror shall review the solicitation for any FASCSA orders that are not in SAM, but are effective and do apply to the solicitation and resultant contract (see FAR 4.2303(c)(2)).

(3) FASCSA orders issued after the date of solicitation do not apply unless added by an amendment to the solicitation.

(d) *Representation.* By submission of this offer, the offeror represents that it has conducted a reasonable inquiry, and that the offeror does not propose to provide or use in response to this solicitation any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by an applicable FASCSA order in effect on the date the solicitation was issued, except as waived by the solicitation, or as disclosed in paragraph (e).

(e) *Disclosures.* The purpose for this disclosure is so the Government may decide whether to issue a waiver. For any covered article, or any products or services produced or provided by a source, if the covered article or the source is subject to an applicable FASCSA order, and the Offeror is unable to represent compliance, then the Offeror shall provide the following information as part of the offer:

- (1) Name of the product or service provided to the Government;
- (2) Name of the covered article or source subject to a FASCSA order;
- (3) If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied the covered article or the product or service to the Offeror;
- (4) Brand;
- (5) Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);
- (6) Item description;
- (7) Reason why the applicable covered article or the product or service is being provided or used;

(f) *Executive agency review of disclosures.* The contracting officer will review disclosures provided in paragraph (e) to determine if any waiver may be sought. A contracting officer may choose not to pursue a waiver for covered articles or sources otherwise subject to a FASCSA order and may instead make an award to an offeror that does not require a waiver.

(End of Provision)

### **3.5 52.209-13 VIOLATION OF ARMS CONTROL TREATIES OR AGREEMENTS—CERTIFICATION (NOV 2021)**

(a) This provision does not apply to acquisitions at or below the simplified acquisition threshold or to acquisitions of commercial products and commercial services as defined in Federal Acquisition Regulation 2.101.

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

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

(i) It does not engage and has not engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is

in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a). The report is available at <https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/>; and

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

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

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

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

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

- (i) An inability to certify compliance.
- (ii) An inability to conclude compliance.
- (iii) A statement about compliance concerns.



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

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

(d) Do not submit an offer unless—

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

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

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

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

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

(End of Provision)

### **3.6 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)

<b><u>FAR Number</u></b>	<b><u>Title</u></b>	<b><u>Date</u></b>
52.229-11	TAX ON CERTAIN FOREIGN PROCUREMENTS—NOTICE AND REPRESENTATION	JUN 2020

## GENERAL CONDITIONS

### 4.1 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (NOV 2021)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of Clause)

## **4.2 52.204-30 FEDERAL ACQUISITION SUPPLY CHAIN SECURITY ACT ORDERS—PROHIBITION (DEC 2023)**

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

*Covered article*, as defined in 41 U.S.C. 4713(k), means—

(1) Information technology, as defined in 40 U.S.C. 11101, including cloud computing services of all types;

(2) Telecommunications equipment or telecommunications service, as those terms are defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

(3) The processing of information on a Federal or non-Federal information system, subject to the requirements of the Controlled Unclassified Information program (see 32 CFR part 2002); or

(4) Hardware, systems, devices, software, or services that include embedded or incidental information technology.

*FASCSA order* means any of the following orders issued under the Federal Acquisition Supply Chain Security Act (FASCSA) requiring the removal of covered articles from executive agency information systems or the exclusion of one or more named sources or named covered articles from executive agency procurement actions, as described in 41 CFR 201–1.303(d) and (e):

(1) The Secretary of Homeland Security may issue FASCSA orders applicable to civilian agencies, to the extent not covered by paragraph (2) or (3) of this definition. This type of FASCSA order may be referred to as a Department of Homeland Security (DHS) FASCSA order.

(2) The Secretary of Defense may issue FASCSA orders applicable to the Department of Defense (DoD) and national security systems other than sensitive compartmented information systems. This type of FASCSA order may be referred to as a DoD FASCSA order.

(3) The Director of National Intelligence (DNI) may issue FASCSA orders applicable to the intelligence community and sensitive compartmented information systems, to the extent not covered by paragraph (2) of this definition. This type of FASCSA order may be referred to as a DNI FASCSA order.

*Intelligence community*, as defined by 50 U.S.C. 3003(4), means the following—

- (1) The Office of the Director of National Intelligence;
- (2) The Central Intelligence Agency;
- (3) The National Security Agency;
- (4) The Defense Intelligence Agency;
- (5) The National Geospatial-Intelligence Agency;
- (6) The National Reconnaissance Office;
- (7) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;
- (8) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy;
- (9) The Bureau of Intelligence and Research of the Department of State;
- (10) The Office of Intelligence and Analysis of the Department of the Treasury;
- (11) The Office of Intelligence and Analysis of the Department of Homeland Security; or
- (12) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

*National security system*, as defined in 44 U.S.C. 3552, means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

(1) The function, operation, or use of which involves intelligence activities; involves cryptologic activities related to national security; involves command and control of military forces; involves equipment that is an integral part of a weapon or weapons system; or is critical to the direct fulfillment of military or intelligence missions, but does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications); or

(2) Is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

*Reasonable inquiry* means an inquiry designed to uncover any information in the entity's possession about the identity of any covered articles, or any products or services produced or provided by a source. This applies when the covered article or the source is subject to an applicable FASCSA order. A reasonable inquiry excludes the need to include an internal or third-party audit.

*Sensitive compartmented information* means classified information concerning or derived from intelligence sources, methods, or analytical processes, which is required to be handled within formal access control systems established by the Director of National Intelligence.

*Sensitive compartmented information system* means a national security system authorized to process or store sensitive compartmented information.

*Source* means a non-Federal supplier, or potential supplier, of products or services, at any tier.

(b) *Prohibition.* (1) Unless an applicable waiver has been issued by the issuing official, Contractors shall not provide or use as part of the performance of the contract any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by an applicable FASCSA orders as follows:

(i) For solicitations and contracts awarded by a Department of Defense contracting office, DoD FASCSA orders apply.

(ii) For all other solicitations and contracts DHS FASCSA orders apply.

(2) The Contractor shall search for the phrase "FASCSA order" in the System for Award Management (SAM) at <https://www.sam.gov> to locate applicable FASCSA orders identified in paragraph (b)(1).

(3) The Government may identify in the solicitation additional FASCSA orders that are not in SAM, which are effective and apply to the solicitation and resultant contract.

(4) A FASCSA order issued after the date of solicitation applies to this contract only if added by an amendment to the solicitation or modification to the contract (see FAR 4.2304(c)). However, see paragraph (c) of this clause.

(5)(i) If the contractor wishes to ask for a waiver of the requirements of a new FASCSA order being applied through modification, then the Contractor shall disclose the following:

(A) Name of the product or service provided to the Government;

(B) Name of the covered article or source subject to a FASCSA order;

(C) If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied or supplies the covered article or the product or service to the Offeror;

(D) Brand;

(E) Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);

(F) Item description;

(G) Reason why the applicable covered article or the product or service is being provided or used;

(ii) *Executive agency review of disclosures.* The contracting officer will review disclosures provided in paragraph (b)(5)(i) to determine if any waiver is warranted. A contracting officer may choose not to pursue a waiver for covered articles or sources otherwise covered by a FASCSA order and to instead pursue other appropriate action.

(c) *Notice and reporting requirement.* (1) During contract performance, the Contractor shall review *SAM.gov* at least once every three months, or as advised by the Contracting Officer, to check for covered articles subject to FASCSA order(s), or for products or services produced by a source subject to FASCSA order(s) not currently identified under paragraph (b) of this clause.

(2) If the Contractor identifies a new FASCSA order(s) that could impact their supply chain, then the Contractor shall conduct a reasonable inquiry to identify whether a covered article or product or service produced or provided by a source subject to the FASCSA order(s) was provided to the Government or used during contract performance.

(3)(i) The Contractor shall submit a report to the contracting office as identified in paragraph (c)(3)(ii) of this clause, if the Contractor identifies, including through any notification by a subcontractor at any tier, that a covered article or product or service produced or provided by a source was provided to the Government or used during contract performance and is subject to a FASCSA order(s) identified in paragraph (b) of this clause, or a new FASCSA order identified in paragraph (c)(2) of this clause. For indefinite delivery contracts, the Contractor shall report to both the contracting office for the indefinite delivery contract and the contracting office for any affected order.

(ii) If a report is required to be submitted to a contracting office under (c)(3)(i) of this clause, the Contractor shall submit the report as follows:

(A) If a Department of Defense contracting office, the Contractor shall report to the website at <https://dibnet.dod.mil>.

(B) For all other contracting offices, the Contractor shall report to the Contracting Officer.

(4) The Contractor shall report the following information for each covered article or each product or service produced or provided by a source, where the covered article or source is subject to a FASCSA order, pursuant to paragraph (c)(3)(i) of this clause:

(i) Within 3 business days from the date of such identification or notification:

(A) Contract number;

(B) Order number(s), if applicable;

(C) Name of the product or service provided to the Government or used during performance of the contract;

(D) Name of the covered article or source subject to a FASCSA order;

(E) If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied the covered article or the product or service to the Contractor;

(F) Brand;

(G) Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);

(H) Item description; and

(I) Any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (c)(4)(i) of this clause:

(A) Any further available information about mitigation actions undertaken or recommended.

(B) In addition, the Contractor shall describe the efforts it undertook to prevent submission or use of the covered article or the product or service produced or provided by a source subject to an applicable FASCSA order, and any additional efforts that will be incorporated to prevent future submission or use of the covered article or the product or service produced or provided by a source that is subject to an applicable FASCSA order.

(d) *Removal.* For Federal Supply Schedules, Governmentwide acquisition contracts, multi-agency contracts or any other procurement instrument intended for use by multiple agencies, upon notification from the Contracting Officer, during the performance of the contract, the Contractor shall promptly make any necessary changes or modifications to remove any product or service produced or provided by a source that is subject to an applicable FASCSA order.

(e) *Subcontracts.* (1) The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (c)(1) of this clause, in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products and commercial services.

(2) The Government may identify in the solicitation additional FASCSA orders that are not in SAM, which are effective and apply to the contract and any subcontracts and other contractual instruments under the contract. The Contractor or higher-tier subcontractor shall notify their subcontractors, and suppliers under other contractual instruments, that the FASCSA orders in the solicitation that are not in SAM apply to the contract and all subcontracts.

(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 10 calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than 60 days after the date the contractor receives the notice to proceed. The time stated for completion shall include final cleanup of the premises.

(End of Clause)

#### **4.4 52.219-28 POSTAWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JAN 2025)**

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

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

*Small business concern*—

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

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

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

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



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

(3) For long-term contracts—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) *Service-disabled veteran-owned small business (SDVOSB) joint venture eligible under the SDVOSB Program.* The Contractor represents that it [ ] is, [ ] is not an SDVOSB joint venture eligible under the SDVOSB Program that complies with the requirements of 13 CFR 128.402. *[The Contractor shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_.]*

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

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

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

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

(End of Clause)

#### 4.5 52.223-20 AEROSOLS (MAY 2024)

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

*Global warming potential* means how much a given mass of a chemical contributes to global warming over a given time period compared to the same mass of carbon dioxide. Carbon dioxide's global warming potential is defined as 1.0.

*High global warming potential hydrofluorocarbons* means any hydrofluorocarbons in a particular end use for which EPA's Significant New Alternatives Policy (SNAP) program has identified other acceptable alternatives that have lower global warming potential. The SNAP list of alternatives is found at 40 CFR part 82, subpart G, with supplemental tables of alternatives available at (<https://www.epa.gov/snap/>).

*Hydrofluorocarbons* means compounds that contain only hydrogen, fluorine, and carbon.

(b) Unless otherwise specified in the contract, the Contractor shall reduce its use, release, or emissions of high global warming potential hydrofluorocarbons, when feasible, from aerosol propellants or solvents under this contract. When determining feasibility of using a particular alternative, the Contractor shall consider environmental, technical, and economic factors such as—

- (1) In-use emission rates, energy efficiency;
- (2) Safety, such as flammability or toxicity;
- (3) Ability to meet technical performance requirements; and
- (4) Commercial availability at a reasonable cost.

(c) The Contractor shall refer to EPA's SNAP program to identify alternatives. The SNAP list of alternatives is found at 40 CFR part 82, subpart G, with supplemental tables available at <https://www.epa.gov/snap/>.

(End of Clause)

#### 4.6 52.223-21 FOAMS (MAY 2024)

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

*Global warming potential* means how much a given mass of a chemical contributes to global warming over a given time period compared to the same mass of carbon dioxide. Carbon dioxide's global warming potential is defined as 1.0.

*High global warming potential hydrofluorocarbons* means any hydrofluorocarbons in a particular end use for which EPA's Significant New Alternatives Policy (SNAP) program has identified other acceptable alternatives that have lower global warming potential. The SNAP list of alternatives is found at 40 CFR part 82, subpart G, with supplemental tables of alternatives available at <https://www.epa.gov/snap/>.

*Hydrofluorocarbons* means compounds that contain only hydrogen, fluorine, and carbon.

(b) Unless otherwise specified in the contract, the Contractor shall reduce its use, release, and emissions of high global warming potential hydrofluorocarbons and refrigerant blends containing hydrofluorocarbons, when feasible, from foam blowing agents, under this contract. When determining feasibility of using a particular alternative, the Contractor shall consider environmental, technical, and economic factors such as—

- (1) In-use emission rates, energy efficiency, and safety;
- (2) Ability to meet performance requirements; and
- (3) Commercial availability at a reasonable cost.

(c) The Contractor shall refer to EPA's SNAP program to identify alternatives. The SNAP list of alternatives is found at 40 CFR part 82, subpart G, with supplemental tables available at <https://www.epa.gov/snap/>.

(End of Clause)

#### 4.7 52.225-9 BUY AMERICAN—CONSTRUCTION MATERIALS (OCT 2022)

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

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

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

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

*Component* means 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.

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

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

*Domestic construction material* means—

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

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

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

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

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

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

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

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

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

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

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

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

(b) Domestic preference.

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

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

None

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

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

(A) *For domestic construction material that is not a critical item or does not contain critical components.*

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

(2) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that is manufactured in the United States and does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that exceeds 55 percent domestic content as a domestic offer and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(3)(i)(A)(1) of this clause.

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

(B) *For domestic construction material that is a critical item or contains critical components.*

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

(2) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest foreign offer of construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer, and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(3)(i)(B)(1) of this clause.

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

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

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

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

(1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(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.			

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

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

[Include other applicable supporting information.]

(End of Clause)

## 4.8 SUPPLEMENTAL INSURANCE REQUIREMENTS

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

(a) Workers' compensation and employers liability: Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require

this coverage. Employer's liability coverage of at least \$100,000 is required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.

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

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

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

(End of Clause)

#### **4.9 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):

<https://www.acquisition.gov/browse/index/far>

<https://www.va.gov/oal/library/vaar/>

(End of Clause)

<b><u>FAR Number</u></b>	<b><u>Title</u></b>	<b><u>Date</u></b>
52.202-1	DEFINITIONS	JUN 2020
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	MAY 2014
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	JUN 2020
52.203-7	ANTI-KICKBACK PROCEDURES	JUN 2020
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	MAY 2014
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	MAY 2014
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	JUN 2020
52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS	NOV 2023
52.203-19	PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS	JAN 2017
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	JAN 2011
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS	JUN 2020
52.204-13	SYSTEM FOR AWARD MANAGEMENT MAINTENANCE	OCT 2018
52.204-14	SERVICE CONTRACT REPORTING REQUIREMENTS	OCT 2016
52.204-18	COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE	AUG 2020

52.204-23	PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB COVERED ENTITIES	DEC 2023
52.204-25	PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT	NOV 2021
52.204-27	PROHIBITION ON A BYTEDANCE COVERED APPLICATION	JUN 2023
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, PROPOSED FOR DEBARMENT, OR VOLUNTARILY EXCLUDED	JAN 2025
52.209-10	PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS	NOV 2015
52.211-12	LIQUIDATED DAMAGES—CONSTRUCTION	SEP 2000
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	JAN 2025
52.222-3	CONVICT LABOR	JUN 2003
52.222-4	CONTRACT WORK HOURS AND SAFETY STANDARDS—OVERTIME COMPENSATION	MAY 2018
52.222-6	CONSTRUCTION WAGE RATE REQUIREMENTS	AUG 2018
52.222-7	WITHHOLDING OF FUNDS	MAY 2014
52.222-8	PAYROLLS AND BASIC RECORDS	JUL 2021
52.222-10	COMPLIANCE WITH COPELAND ACT REQUIREMENTS	FEB 1988
52.222-11	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
52.222-35	EQUAL OPPORTUNITY FOR VETERANS	JUN 2020
52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES	JUN 2020
52.222-37	EMPLOYMENT REPORTS ON VETERANS	JUN 2020
52.222-40	NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT	DEC 2010
52.222-50	COMBATING TRAFFICKING IN PERSONS	NOV 2021
52.222-55	MINIMUM WAGES FOR CONTRACTOR WORKERS UNDER EXECUTIVE ORDER 14026	JAN 2022
52.222-62	PAID SICK LEAVE UNDER EXECUTIVE ORDER 13706	JAN 2022
52.223-2	REPORTING OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS	MAY 2024
52.223-5	POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION	MAY 2024
52.223-23	SUSTAINABLE PRODUCTS AND SERVICES	MAY 2024
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	FEB 2021
52.226-7	DRUG-FREE WORKPLACE	MAY 2024
52.226-8	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING	MAY 2024
52.227-1	AUTHORIZATION AND CONSENT	JUN 2020
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT	JUN 2020
52.227-4	PATENT INDEMNITY—CONSTRUCTION CONTRACTS	DEC 2007
52.228-2	ADDITIONAL BOND SECURITY	OCT 1997

52.228-5	INSURANCE—WORK ON A GOVERNMENT INSTALLATION	JAN 1997
52.228-11	INDIVIDUAL SURETY—PLEDGE OF ASSETS	FEB 2021
52.228-12	PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS	DEC 2022
52.228-14	IRREVOCABLE LETTER OF CREDIT	NOV 2014
52.228-15	PERFORMANCE AND PAYMENT BONDS— CONSTRUCTION	JUN 2020
52.229-3	FEDERAL, STATE, AND LOCAL TAXES	FEB 2013
52.229-12	TAX ON CERTAIN FOREIGN PROCUREMENTS	FEB 2021
52.232-5	PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS	MAY 2014
52.232-17	INTEREST	MAY 2014
52.232-23	ASSIGNMENT OF CLAIMS	MAY 2014
52.232-27	PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS	JAN 2017
52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER— SYSTEM FOR AWARD MANAGEMENT	OCT 2018
52.232-39	UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS	JUN 2013
52.232-40	PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS	MAR 2023
52.233-1	DISPUTES	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
52.240-1	PROHIBITION ON UNMANNED AIRCRAFT SYSTEMS MANUFACTURED OR ASSEMBLED BY AMERICAN SECURITY DRONE ACT—COVERED FOREIGN ENTITIES	NOV 2024
52.242-13	BANKRUPTCY	JUL 1995
52.242-14	SUSPENSION OF WORK	APR 1984
52.243-4	CHANGES	JUN 2007
52.244-6	SUBCONTRACTS FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES	JAN 2025
52.246-12	INSPECTION OF CONSTRUCTION	AUG 1996
52.246-21	WARRANTY OF CONSTRUCTION	MAR 1994
52.248-3	VALUE ENGINEERING—CONSTRUCTION	OCT 2020

52.249-2	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) ALTERNATE I (SEPT 1996)	APR 2012
52.249-10	DEFAULT (FIXED-PRICE CONSTRUCTION)	APR 1984
52.253-1	COMPUTER GENERATED FORMS	JAN 1991

#### **4.10 VAAR 852.201-70 CONTRACTING OFFICER'S REPRESENTATIVE (DEC 2022)**

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 letter shall be furnished to the Contractor.

(End of Clause)

#### **4.11 VAAR 852.203-70 COMMERCIAL ADVERTISING (MAY 2018)**

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

(End of Clause)

#### **4.12 VAAR 852.204-70 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (MAY 2020)**

(a) The Contractor shall comply with current Department of Veterans Affairs policy for personal identity verification of all employees performing under this contract when frequent and continuing access to VA facilities or information systems is required.

(b) The Contractor shall insert this clause in all subcontracts when the subcontractor's employees will require frequent and continuing access to VA facilities or information systems.

(End of Clause)

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

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

(1) Means a small business concern—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Agreement/LOS certification. When awarded a contract action, including orders under multiple award contracts, an SDVOSB agrees that in the performance of the contract, the SDVOSB shall comply with requirements in VAAR subpart 819.70 and SBA regulations on small business size, and government contracting programs at 13 CFR part 121 and part 125, including the non-manufacturer rule and limitations on subcontracting (LOS) requirements in 13 CFR 121.406(b) and 13 CFR 125.6. For the purpose of limitations on subcontracting, only certified SDVOSBs listed in the SBA certification database (including independent contractors) shall be considered eligible and/or “similarly situated” (i.e., a firm that has the same small business program status as the prime contractor). An otherwise eligible firm further agrees to comply with the required LOS certification requirements in this solicitation (see 852.219–75 or 852.219–76 as applicable). These requirements are summarized as follows:

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

(2) Supplies/products.

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

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

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

(4) Special trade construction contractors. In the case of a contract for special trade contractors, no more than 75% of the amount paid by the government to the prime for contract

performance, excluding the cost of materials, may be paid to firms that are not certified SDVOSBs listed in the SBA certification database.

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

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

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

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

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

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

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

(End of Clause)

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

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

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

(i) [ ] *Services*. In the case of a contract for services (except construction), the contractor will not pay more than 50% of the amount paid by the government to it to firms that are not certified



SDVOSBs listed in the SBA certification database as set forth in 852.219–73 or certified VOSBs listed in the SBA certification database as set forth in 852.219–74. Any work that a similarly situated certified SDVOSB/VOSB subcontractor further subcontracts will count towards the 50% subcontract amount that cannot be exceeded. Other direct costs may be excluded to the extent they are not the principal purpose of the acquisition and small business concerns do not provide the service as set forth in 13 CFR 125.6.

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

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

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

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

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

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

(c) The offeror further agrees to cooperate fully and make available any documents or records as may be required to enable VA to determine compliance with the limitations on subcontracting

requirement. The offeror understands that failure to provide documents as requested by VA may result in remedial action as the Government deems appropriate.

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

#### Certification

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

Printed Name of Signee: \_\_\_\_\_

Printed Title of Signee: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Company Name and Address: \_\_\_\_\_

(End of Clause)

#### **4.15 VAAR 852.222-71 COMPLIANCE WITH EXECUTIVE ORDER 13899 (DEVIATION) (APR 2025)**

a. The contractor shall comply with Executive Order 13899, Combating Anti-Semitism, pursuant to Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. 2000d et seq.

b. The contractor shall timely disclose, in writing, to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation under Executive Order 13899, Combatting Anti-Semitism pursuant to the Civil Rights Act of 1964 (Title VI), 42 U.S.C. 2000d et seq.

c. The contractor shall include the terms and conditions of this clause in every subcontract or purchase order so that these terms will be binding on every subcontractor or vendor.

(End of clause)

#### **4.16 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)

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

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

(End of Clause)

#### **4.18 VAAR 852.232-70 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (WITHOUT NAS– CPM) (NOV 2018)**

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

(a) Retainage.

(1) The Contracting Officer may retain funds—

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

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

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

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

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

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

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

(3) Any level of retention shall not exceed 10 percent either where there is determined to be unsatisfactory performance, or when the retainage is to ensure satisfactory completion. Retained amounts shall be paid promptly upon completion of all contract requirements, but nothing contained in

this paragraph (a)(3) shall be construed as limiting the Contracting Officer's right to withhold funds under other provisions of the contract or in accordance with the general law and regulations regarding the administration of Government contracts.

(b) The Contractor shall submit a schedule of 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 work activity/event for each building or unit of the contract, as instructed by the resident engineer.

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

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

(3) The sums of the sub-activities/events, as applied to each work activity/event, shall equal the total cost of such work activity/event. The total cost of all work activities/events 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 in the following table 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 its bid and will not be binding as pertaining to any contract changes.

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

- (1) The materials or equipment are in accordance with the contract requirements and/or approved samples and shop drawings;
- (2) The materials and/or equipment are approved by the resident engineer;
- (3) The materials and/or equipment are stored separately and are readily available for inspection and inventory by the resident engineer;
- (4) The materials and/or equipment are protected against weather, theft and other hazards and are not subjected to deterioration; and
- (5) The Contractor obtains the concurrence of its surety for off-site storage.

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

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

(End of Clause)

#### **4.19 VAAR 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2018)**

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Awards made to foreign vendors for work performed outside the United States;
- (2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified or privacy information;
- (3) Contracts awarded by contracting officers in the conduct of emergency operations, such as responses to national emergencies;
- (4) Solicitations or contracts in which the designated agency office is a VA entity other than the VA Financial Services Center in Austin, Texas; or
- (5) Solicitations or contracts in which the VA designated agency office does not have electronic invoicing capability as described above.

(End of Clause)

#### **4.20 VAAR 852.236-71 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (APR 2019)**

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) The Contractor shall—
  - (1) Check all drawings and specifications furnished immediately upon receipt;
  - (2) Compare all drawings and the specifications, and verify the figures before laying out the work;
  - (3) Promptly notify the Contracting Officer of any discrepancies;
  - (4) Be responsible for any errors that might have been avoided by complying with this paragraph (b); and
  - (5) Reproduce and print contract drawings and specifications as needed.
- (c) In general—
  - (1) Drawings of greater detail shall govern over drawings of lesser detail unless specifically noted otherwise; and
  - (2) Figures and numerical quantities noted on drawings govern over scale measurements.
- (d) Omissions from the drawings or specifications or the misdescription of details of work that are manifestly necessary to carry out the intent of the drawings and specifications, or that are

customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work. The Contractor shall perform such details as if fully and correctly set forth and described in the drawings and specifications.

(e) The work shall conform to the specifications and the contract drawings identified on the following index of drawings:

Title	File	Drawing No.
SOW Attached Documents	(SOW UD Medical Air Compressors)	

(End of Clause)

#### **4.21 VAAR 852.236-79 CONTRACTOR PRODUCTION REPORT (APR 2019)**

(a) The Contractor shall furnish to the resident engineer, for each workday, a consolidated report for the preceding workday. Reporting shall begin from date of mobilization until the date of final acceptance except for authorized holidays. VA Form 10101, Contractor Production Report, or a Contractor generated form containing the same type of information shall be signed, dated and submitted by the Contractor superintendent.

(b) Each report shall include and specifically identify at least one safety topic germane to the jobsite that day.

(End of Clause)

#### **4.22 VAAR 852.236-80 SUBCONTRACTS AND WORK COORDINATION (APR 2019)**

(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 or subcontractor employee 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, careless, or otherwise objectionable.

(End of Clause)



#### **4.23 VAAR 852.242-70 GOVERNMENT CONSTRUCTION CONTRACT ADMINISTRATION (OCT 2020)**

(a) Contract administration functions set forth in FAR 42.302 are hereby delegated to:

Department of Veterans Affairs  
Network Contracting Office 4

(b) The following functions will be retained by the Contracting Officer or Administrative Contracting Officer (ACO) and are not redelegable to Resident Engineers:

(1) Award of contract modifications either through supplemental agreements or change orders that exceed the ACO's appointed warrant limitations.

(2) Issuance of default letters.

(3) Issuance of Cure or Show-Cause Notices.

(4) Suspension of work letters and/or modifications.

(5) Issuance of Contracting Officer final determination letters.

(6) Issuance of termination notices.

(7) Authorization of final payment.

(c) The work will be under the direction of a Department of Veterans Affairs Contracting Officer, who may designate another VA employee to act as resident engineer at the construction site who possesses limited warranted authority.

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

(e) The Contracting Officer or an Administrative Contracting Officer identified in paragraph (a) may further delegate limited authority and specialized support services responsibilities below to the following warranted Resident Engineer personnel on site, not to exceed the dollar value and threshold of their warrant:

(1) Conduct post-award orientation conferences.

(2) Issue administrative changes (see FAR 43.101) correcting errors or omissions, contractor address, facility or activity code, remittance address, computations which do not required additional contract funds, and other such changes.

(3) For actions not to exceed negotiate and execute supplemental agreements resulting from change orders issued under the Changes clause.

(4) Negotiate and execute supplemental agreements changing contract delivery schedules where the time extension does not exceed calendar days.

(End of Clause)

#### **4.24 VAAR 852.242-71 ADMINISTRATIVE CONTRACTING OFFICER (OCT 2020)**

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

(End of Clause)

#### **4.25 VAAR 852.243-70 CONSTRUCTION CONTRACT CHANGES—SUPPLEMENT (SEP 2019)**

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

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

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

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

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

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

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

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

(1) As a basis for negotiation, allowances not to exceed 10 percent each for overhead and profit for the party performing the work will be based on the value of labor, material, and equipment required to accomplish the change. As the value of the change increases, a declining scale will be used in negotiating the percentage of overhead and profit. This declining scale will also be used to negotiate the prime Contractor's or upper-tier subcontractor's fee when work is performed by lower-tier subcontractors (to a maximum of three tiers) and will be based on the net increased cost to the prime or upper-tier subcontractor, as applicable. Profit (fee) shall be computed by multiplying the profit percentage by the sum of the direct costs and computed overhead costs. Allowable percentages on changes will not exceed the following:

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

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

(c)(1) Overhead and Contractor's fee percentages shall be considered to include insurance other than mentioned herein, field and office supervisors and assistants, security police, use of small tools, incidental job burdens, and general home office expenses and no separate allowance will be made. Assistants to office supervisors include all clerical, stenographic and general office help. Incidental job burdens include, but are not necessarily limited to, office equipment and supplies, temporary toilets, telephone and conformance to OSHA requirements. Items such as, but not necessarily limited to, review and coordination, estimating and expediting relative to contract changes are associated with field and office supervision and are considered to be included in the Contractor's overhead and/or fee percentage.

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

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

(End of Clause)

## ATTACHMENTS

See attached document: WG PA20250001 03.28.2025.

See attached document: SOW UD medical air compressors.

See attached document: VAAR 852.219-75.

End of Document