SOLICITATION,OFFER, AND AWARD *(Construction, Alteration, or Repair)*	1. SOLICITATION NUMBER 15B10626Q00000017	2. TYPE OF SOLICITATION ☐ SEALED BID (IFB) INVITATION FOR BID ☐ NEGOTIATED (RFP) REQUEST FOR PROPOSAL	3. DATE ISSUED 06/09/2026	PAGE 1 OF PAGES 46

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

4. CONTRACT NUMBER	5. REQUISITION/PURCHASE REQUEST NUMBER	6. PROJECT NUMBER
	15B10626PR000735	26Z1AS5

7. ISSUED BY CODE 15B106

Federal Bureau of Prisons
FCC Butner
OLD NC HWY 75
Butner, NC 27509

8. ADDRESS OFFER TO

9. FOR INFORMATION CALL:	a. NAME	b. TELEPHONE NUMBER *(Include area code) (NO COLLECT CALLS)*
	Ashley Harding a1huffman@bop.gov	

SOLICITATION

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

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

THE SELECTED CONTRACTOR SHALL PROVIDE ALL MATERIALS, LABOR, AND EQUIPMENT TO COMPLETE BUT INTERIOR REPAIRS - FLOORING SYSTEM AT THE FEDERAL CORRECTIONAL INSTITUTION LOCATED IN BUTNER, NC IN ACCORDANCE WITH THE ATTACHED STATEMENT OF WORK. WAGE DETERMINATION NC20260003 IS INCLUDED IN THIS SOLICIATION.

11. The Contractor shall begin performance within 10 calendar days and complete it within 91 calendar days after receiving ☐ award, ☒ notice to proceed. This performance period is ☒ mandatory ☐ negotiable. ***(See _____.)***

12a. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? *(If "YES," indicate within how many calendar days after award in Item 12b).* ☒ YES ☐ NO	12b. CALENDAR DAYS 10

13. ADDITIONAL SOLICITATION REQUIREMENTS:

a. Sealed offers in original and _____ copies to perform the work required are due at the place specified in item 8 by 16:00US/Eastern ***(hour)*** local time 07/08/2026 (date). If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

b. An offer guarantee ☐ is, ☒ is not required.

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

d. Offers providing less than 90 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 this 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:

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 THE UNITED STATES CODE AT ☐ 10 U.S.C. 3204(a) ( ) ☐ 41 U.S.C. 3304(a) ( )

26. ADMINISTERED BY	15B106	27. PAYMENT WILL BE MADE BY
Federal Bureau of Prisons FCC Butner OLD NC HWY 75 Butner, NC 27509	Ashley Harding a1huffman@bop.gov	Federal Bureau of Prisons FCC Butner PO BOX 999 Butner, NC 27509 bux-invoices@bop.gov

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)* Ashley Harding	
30b. SIGNATURE	30c. DATE	31b. UNITED STATES OF AMERICA BY	31c. DATE

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Section 2 - Commodity or Services Schedule

THE SELECTED CONTRACTOR SHALL PROVIDE ALL MATERIALS, LABOR, AND EQUIPMENT TO COMPLETE BUT INTERIOR REPAIRS - FLOORING SYSTEM AT THE FEDERAL CORRECTIONAL INSTITUTION LOCATED IN BUTNER, NC IN ACCORDANCE WITH THE ATTACHED STATEMENT OF WORK.

Firm Fixed Price

SCHEDULE OF SUPPLIES/SERVICES

CONTINUATION SHEET

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	THE SELECTED CONTRACTOR SHALL PROVIDE ALL MATERIALS, LABOR, AND EQUIPMENT TO COMPLETE BUT INTERIOR REPAIRS - FLOORING SYSTEM AT THE FEDERAL CORRECTIONAL INSTITUTION LOCATED IN BUTNER, NC IN ACCORDANCE WITH THE ATTACHED STATEMENT OF WORK. WAGE DETERMINATION NC20260003 IS INCLUDED IN THIS SOLICIATION. PSC: 7220 **Delivery Schedule:** **Delivery Description:** Delivery Number: 1 Delivery Required On: Quantity: 1.000000	1	JB	$_____	$_____

The successful contractor shall be responsible for all applicable federal, state, and local taxes. No tax exemption certification will be issued by the Federal Bureau of Prisons. THE TOTAL PRICE SHALL BE WRITTEN ON LINE ITEM 17 OF THE SF 1442.

Section 3 - Special Contract Requirements

Clauses By Reference

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): www.acquisition.gov		
Clause	Title	Fill-ins (if applicable)
2852.223-70	Unsafe Conditions Due to the Presence of Hazardous Material (NOV 2020)	

Clauses By Full Text

FAO-0001 Bonds

(a) Bid Guarantee. Each bidder shall submit with his bid a Bid Bond (Standard Form 24) with good and sufficient surety or sureties acceptable to the Government, or other security as provided in provision 52.228-1, in the form of twenty percent (20) of the bid price or not to exceed $3,000,000. The bid bond penalty may be expressed in terms of a percentage of the bid price or may be expressed in dollars and cents. A bid bond is not required for bids of $150,000 or less. (FAR 28.102-1)

(b) Performance and Payment Bonds. Within 10 days after award the contractor shall execute and submit to the Contracting Officer two bonds, each with good and sufficient surety or sureties acceptable to the Government, as follows; a Performance Bond (Standard Form 25) and a Payment Bond (Standard Form 25A). The penal sums of such bonds will be as follows: (Not required for contracts of $150,000 or less)

(1) Performance Bond: The penal sum of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(2) Payment Bond: The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(c) For construction contracts greater than $35,000 but not greater than $150,000, the Contracting Officer shall select two or more of the following payment protections, giving particular consideration to inclusion of an irrevocable letter of credit as one of the selected alternatives (FAR 28.102-1(b)(1)):

(1) A Payment Bond;
(2) An irrevocable letter of credit (ILC);
(3) A tripartite escrow agreement;
(4) A Certificate of Deposit; or
(5) A deposit of the types of security listed in 28.204-1 and 28.204-2.

(d) Individual Sureties.

(1) Bidders may elect to furnish individual surety bonds. If individual surety bonds are furnished for bid guarantees, payment or performance bonds, the individual sureties must submit their bonds proof of ownership and value of the assets which they claim in their net worth at time of bid opening. The Government's preferred method of proof is to have a statement of net worth prepared by a Certified Public Accountant (CPA) in accordance with Generally Accepted Accounting Principles (GAAP). Statements from a CPA that contain disclaimers are not acceptable. The statement of net worth on the Standard Form 28, Affidavit of Individual Surety, is insufficient and will not be accepted without additional proof of value and ownership.

(2) Bidders are cautioned that individual sureties must provide complete and detailed information in Block 9 of Standard Form 28 concerning other contracts on which they have provided bonds. This information shall include contract number, contract location, amount, and type of bond and telephone number of the involved contracting office. Failure to provide the proof and information required may result in rejection of the bid or termination of the contract for failure to provide adequate bonds.

FAO-0003 Required Insurance

See FAR 52.228-5, Insurance - Work on a Government Installation.

The Contractor shall, at its own expense, provide and maintain during the entire performance

period of this contract, at least the kinds and minimum amounts of insurance required in the

Schedule or elsewhere in the contract.

TYPE	AMOUNT
(1) WORKERS COMPENSATION & EMPLOYER'S LIABILITY	$100,000

The required Workmen's Compensation Insurance shall extend to cover employee's liability for accidental bodily injury or death and for occupational disease with a minimum liability of $100,000.

(2) COMPREHENSIVE GENERAL LIABILITY with a minimum limit of:

PER ACCIDENT OR	
OCCURRENCE FOR BODILY INJURY	$500,000

This insurance shall include contractor's protective and contractual liability.

(3) COMPREHENSIVE AUTOMOBILE LIABILITY with the following minimum limits:

PER PERSON	$200,000
PER OCCURRENCE FOR BODILY INJURY	$500,000
PER OCCURRENCE FOR PROPERTY DAMAGE	$ 20,000

FAO-0004 Pre-Construction Conference

(a) Prior to the start of construction, Contracting Officers shall call a conference with the contractor, subcontractor(s), Warden, Controller/Business Administrator, Safety Manager, Facilities Administrator, Project Representative, A&E firm, Captain and other interested personnel to discuss the statutory labor standards, prevailing wage requirements, submission of the contractor's payrolls, subcontractor's responsibilities, institution work schedules, local policies, contraband, parking, storage of vehicles and equipment, etc.

Minutes of the conference shall be recorded, listing the names and titles of all attendees, and the subject matter of all items covered. The minutes shall be signed by the contractor and the Contracting Officer, and a signed copy placed in the contract file.

(b) The Contractor shall familiarize himself/herself with all procedures involved in normal institution routines. Any requirements which may constitute a problem or result in conflict, will be brought to the attention of the Contracting Officer or his representative for determination.

FAO-0005 Submittals

Within 10 calendar days after commencement of work or as otherwise established by the Contracting Officer, all materials and articles requiring approval, as contemplated by the Materials and Workmanship clause, shall be submitted by the contractor.

The submittal process is in place to allow the Government the opportunity to determine whether materials or procedures used by the contractor are in accordance with contract requirements. It is ultimately the Contractor's responsibility via the quality control process to ensure submittal items installed under the contract and work performed on site are in accordance with industry standards and general practices.

(a) The types of submittal requirements specified in this contract may include, but is not limited to; shop drawings, product data, samples, certificates of conformance or compliance, certified test or inspection reports, equipment, materials, and miscellaneous work related submittals for construction. Individual submittal requirements are generally specified in applicable sections for each unit of work in the specifications and/or as a whole in one section in the statement of work.

(b) The Bureau of Prisons (BOP) Contracting Officer’s Representative (COR) shall act for the Contracting Officer in the review and acceptance of all submittals. The Contractor shall submit submittals as required by the contract/specificat ions to the COR for transmittal to the Contracting Officer. Fabrication of any work or purchase or use of any submittals (such as materials for which samples are required or equipment, etc.) shall not take place until written acceptance is given by the COR, except at the Contractor's own risk.

(c) The Contractor shall submit all shop drawings and submittals sufficiently in advance (unless otherwise specified in the specifications) of the construction requirements to allow ample time for checking, re-submitting, and re-checking.

(d) Failure of any materials to pass their specified tests shall be sufficient cause for refusal to consider, under this contract, any further samples of the same brand or make of that material. The Government reserves the right to disapprove any material or equipment which has previously proven unsatisfactory in service.

(e) The Contracting Officer’s or designee’s approval or acceptance of submittals is not to be construed as a complete check. Approval or acceptance will not relieve the Contractor of the responsibility for any error which may exist, as the Contractor is responsible for the satisfactory construction of all work. The Contractor is responsible for delivering a final product/system that is operational as intended by the contract requirements, regardless of any Government approvals or

acceptance of submittals. The Government assumes no liability during the submittal approval/acceptance process. It is the sole responsibility of the Contractor to deliver a properly functioning product or system.

FAO-0006 Contractor Use of Premises

Work Hours

The project schedule is based on a normal forty (40) hour work week, eight (8) hours per day, Monday through Friday, excluding Federal holidays. The Contracting Officer's Representative (COR) shall establish the work hour time frames for the duration of the project, subject to the approval of the Contracting Officer. Work hours and work days may be altered only with a 48 hour advance approval of the Contracting Officer.

NOTE: Access to the site will be available during normal working hours except during emergencies. It shall be the responsibility of the Contractor to familiarize himself, his employees, and his subcontractors of the working hours and conditions in the correctional facility, as working hours may not constitute a full eight hour day. The Government assumes no responsibility to the Contractor, nor to any of his subcontractors, for shorter hours due to institutional emergencies or entry and/or exit of workers necessitated by normal institution routines. The procedures and institutional entrance/ exit routines applicable to this project will be explained at both the pre-bid conference/site visit and the pre-construction meeting.

Contraband

The Contractor shall inform his employees that intoxicating beverages, drugs, weapons, etc., will not be allowed on the site. Introduction of contraband shall be subject to the penalties prescribed by Title 18 USC-1791.

Explosives

The use of explosives is absolutely forbidden without written authorization from the Contracting Officer.

Parking and Temporary Office

Parking will be available at the site to the extent it does not interfere with construction activities. Otherwise, parking shall be provided for by the Contractor, at his expense, off the site for workmen employed on the project. Any temporary field office used by the Contractor shall be located in an area approved by the COR.

Safety and Accident Prevention

In performing work under this contract the contractor shall:

(a) Conform to the specific safety requirements established by this contract;

(b) Comply with the safety rules of the Government institution that concern related activities not directly addressed in this contract;

(c) Take all reasonable steps and precautions to prevent accidents and preserve the life and health of contractor and Government personnel performing or in any way coming in contact with the performance of this contract; and

(d) Take such additional immediate precautions as the Contracting Officer and/or COR may reasonably require for safety and accident prevention purposes.

FAO-0007 Payment Services

(a) Original application for payment shall be prepared on AIA (American Institute of Architects) Form G-702 "Application and Certificate for Payment" and submitted to the Contracting Officer. The contractor may use another form; however, it shall contain similar information as the AIA Form G-702. The Contracting Officer's Representative (COR) will approve the amount of payment by signing. The approved application for payment shall be forwarded as follows: Original to Accounting; Copy for Contract Award File.

(b) All small business contractors are required to self-certify on all invoices their small business status.

(c) The following information is required with each application for payment:

- Name and address of contractor
- Contract number

- Contractor invoice/application for payment number
- Description, price, and quantity of construction completed/rendered
- Payment terms (reference the contract payment clause)
- Other substantiating documentation or information required by the contract
- Name, title, and phone number of official to be notified in the event of a defective invoice
- Contractor TIN (Tax ID Number)

FAO-0008 Request for Final Inspection

The Contractor shall give the Contracting Officer's Representative (COR) a minimum of ten (10) working days advanced written notice of the date on which the work will be fully completed and ready for the Government's final inspection.

FAO-0009 Contract Security (Program Statement 3000.03 Human Resource Management Manual)

In addition to the information contained in clause "DOJ-03 Personnel Security Requirements For Contractor Employees (Nov 2021); (Alt. I) -- Classified Information – Cleared
Contractors", the following additional security is required to be completed and submitted for all contract employees who will be working under the terms of the contract:
Criminal History Check – BP-A0660
CJIS Name Check Request Form
BOP Contractor Pre-employment Questionnaire
BOP Authority for Release of Information

FAO-0010 Assignment of Contract Administration Office and Functions

Pursuant to FAR 42.201 and 42.202, the assigned Contract Administration Office is listed in Block 26 of the Standard Form 1442 Back. This assignment carries with it the authority to perform all of the contract administration functions listed in FAR 42.302(a) and 42.302(b) to the extent that those functions apply to the contract.

The Contract Administration Office is required, however, to obtain written authorization from the Procuring Contracting Officer (PCO) to perform any function listed under 42.302(b). *Specifically*, the Administrative Contracting Officer (ACO) is required to obtain written authorization to perform the below referenced functions **FOR CONSTRUCTION CONTRACT AWARDS**:

(1) Negotiate or negotiate and execute supplemental agreements incorporating contractor proposals resulting from change orders issued under the Changes clause. Before completing negotiations, coordinate any delivery schedule change with the contracting office.

(2) Negotiate prices and execute priced exhibits for unpriced orders issued by the contracting officer under basic ordering agreements.

(3) Negotiate or negotiate and execute supplemental agreements changing contract delivery schedules.

(4) *Complete* Contractor Performance Assessment Report System (CPARS) evaluations of contractor performance in accordance with FAR Subpart 42.15.

Should any other function under FAR Subpart 42.15 not listed above be required, the ACO is required to contact the PCO for authority.

FAO-0011 Schedule of Values

The Contractor shall prepare a Schedule of Values (SOV) for the project and submit to the Contracting Officer for approval prior to submitting the first application for payment. The SOV shall be correlated with the construction schedule. The SOV shall be formatted per the Construction Specification Institute Master Format structure. The Contractor may propose an alternate organizational format to the Contracting Officer for approval.

(a) The SOV shall include:

(1) Project name, location, and contract number;
(2) Contractor's name and address;
(3) Date of submittal.

(b) The SOV shall be arranged in a tabular form with separate columns to indicate the following for each item listed:

(1) Description of Work or Material;
(2) Related specification section, if applicable;
(3) Name of subcontractor, if applicable;
(4) Name of manufacturer or fabricator, if applicable;
(5) Name of supplier, if applicable;
(6) Change orders (modifications) that have affected value, if applicable;
(7) Dollar value;
(8) Percentage of Contract sum rounded to the nearest percent, adjusted to total 100 percent.

(c) The SOV shall breakdown the contract sum in sufficient detail to facilitate continued evaluation of applications for payment and progress reports. The contractor should separate principal subcontract amounts down into several line items.

(d) SOV amounts shall be rounded to the nearest whole dollar. The total of all SOV amounts shall equal the total contract amount.

(e) The contractor shall progress the percentage of completion, with the concurrence of the Contracting Officer's Representative, for each value in conjunction with the preparation of each monthly application for payment. The progressed value percentages shall directly correlate to the calculated total amount due for each monthly progress payment.

(f) The SOV shall remain fixed for the duration of contract performance. Any revisions to the SOV must be requested in writing, with justification, for approval by the Contracting Officer.

FAO-0012 Progress Meetings

The Administrative Contracting Officer (ACO) shall conduct progress meetings at the project site on a monthly basis, or at intervals as determined by the ACO.

(a) At a minimum, the attendees shall include but is not limited to:

(1) FBOP: Administrative Contracting Officer, Contracting Officer's Representative (COR), Facility Administrator/Manager, Architect/Engineer (if applicable), Other Personnel (Executive Staff, Captain, Safety Manager, etc.).

(2) Contractor: Project Manager, Superintendent, and technical support disciplines as appropriate (Subcontractors, Manufacturers, Suppliers, etc.).

(b) The meeting should include, but is not limited to issues such as:

<u>Administrative Contracting Officer:</u>

(1) Old business from previous progress meeting(s);

(2) Status of modifications, certified payrolls, submittals, requests for information (RFI);

(3) Review of payments made to date and review/approve current payment request;

(4) Status of modification proposal requests;

(5) Discuss new business.

COR:

(1) Status of escort coverage;

(2) Review gate or sallyport entrance/exit issues;

(3) Discuss other delays contractor may be experiencing;

(4) Discuss performance/quality issues.

Contractor:

(1) Review/discuss updated progress schedule;

(2) Provide 30 day outlook;

(3) Discuss other issues affecting performance.

FAO-0013 Contract Closeout Procedures (for construction contracts exceeding $150,000)

Contract Closeout must be completed within six (6) months of physical completion of the work.

Prior to payment of final invoice:

The contractor shall submit the following documents:

(1) Contractor's Affidavit of Release of Liens (AIA Document G706A);

(2) Contractor's Affidavit of Payment of Debts and Claims (AIA Document G706);

(3) All as-built drawings/shop drawings, if applicable;

(4) Contractor's final invoice;

(5) Release of Claims (GSA Form 1142);

(6) Consent of Surety to Final Payment (AIA Document G707);

(7) Letter establishing warranty dates;

(8) Complete list of subcontractors with telephone numbers and points of contact;

(9) Guarantees and warranties;

(10) All balance and test reports;

(11) All operation/maintenance manuals;

(12) All permits and certifications.

AIA forms can be obtained from The American Institute of Architects at www.aiabookstore.com.

GSA forms can be obtained from the General Services Administration at www.gsa.gov (click on the “Forms Library” link).

Section 4 - Contract Clauses

Clauses By Reference

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): www.acquisition.gov		
Clause	Title	Fill-ins (if applicable)
52.211-13	Time Extensions (Sept 2000)	
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)	
52.204-13 (DEV)	System for Award Management-Maintenance (Oct 2018) (DEVIATION NOV 2025)	
52.209-6 (DEV)	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, Proposed for Debarment, or Voluntarily Excluded (Jan 2025) (DEVIATION NOV 2025)	
52.209-10 (DEV)	Prohibition on Contracting With Inverted Domestic Corporations (Nov 2015) (DEVIATION NOV 2025)	
52.219-6 (DEV)	Notice of Total Small Business Set-Aside (Nov 2020) (DEVIATION DEC 2025)	
52.222-6 (DEV)	Construction Wage Rate Requirements (Aug 2018) (DEVIATION AUG 2025)	
52.222-7 (DEV)	Withholding of Funds (May 2014) (DEVIATION DEC 2025)	
52.222-8 (DEV)	Payrolls and Basic Records (Jul 2021) (DEVIATION DEC 2025)	

Clause	Title	Fill-ins (if applicable)
52.222-9 (DEV)	Apprentices and Trainees (July 2005) (DEVIATION DEC 2025)	
52.222-10 (DEV)	Compliance with Copeland Act Requirements (Feb 1988) (DEVIATION DEC 2025)	
52.222-11 (DEV)	Subcontracts (Labor Standards) (May 2014) (DEVIATION DEC 2025)	
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 (DEV)	Disputes Concerning Labor Standards (Feb 1988) (DEVIATION DEC 2025)	
52.222-15	Certification of Eligibility (May 2014)	
52.222-19 (DEV)	Child Labor-Cooperation with Authorities and Remedies (Jan 2025) (DEVIATION MAR 2026)	
52.222-35 (DEV)	Equal Opportunity for Veterans (Jun 2020) (DEVIATION DEC 2025)	
52.222-36 (DEV)	Equal Opportunity for Workers with Disabilities (Jun 2020) (DEVIATION DEC 2025)	
52.222-37 (DEV)	Employment Reports on Veterans (Jun 2020) (DEVIATION DEC 2025)	
52.222-41 (DEV)	Service Contract Labor Standards (Aug 2018) (DEVIATION DEC 2025)	
52.222-42	Statement of Equivalent Rates for Federal Hires (May 2014)	
52.222-50 (DEV)	Combating Trafficking in Persons (Oct 2025) (DEVIATION DEC 2025)	
52.222-55 (DEV)	Minimum Wages for Contractor Workers Under Executive Order 14026 (Jan 2022) (DEVIATION DEC 2025)	
52.222-62 (DEV)	Paid Sick Leave Under Executive Order 13706 (Jan 2022) (DEVIATION DEC 2025)	

Clause	Title	Fill-ins (if applicable)
52.222-90	Addressing DEI Discrimination by Federal Contractors (APR 2026)	
52.223-2 (DEV)	Reporting of Biobased Products Under Service and Construction Contracts (May 2024) (DEVIATION DEC 2025)	
52.223-3 (DEV)	Hazardous Material Identification and Safety Data (Feb 2021) (DEVIATION DEC 2025)	
52.223-5	Pollution Prevention and Right-to-Know Information (May 2024)	
52.223-23 (DEV)	Sustainable Products (May 2024) (DEVIATION DEC 2025)	
52.225-10	Notice of Buy American Requirement-Construction Materials (May 2014)	
52.226-8	Encouraging Contractor Policies To Ban Text Messaging While Driving (May 2024)	
52.227-4	Patent Indemnity-Construction Contracts (Dec 2007)	
52.228-2	Additional Bond Security (Oct 1997)	
52.228-11	Individual Surety-Pledge of Assets (Feb 2021)	
52.228-14	Irrevocable Letter of Credit (Nov 2014)	
52.232-33	Payment by Electronic Funds Transfer-System for Award Management (Oct 2018)	
52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Mar 2023)	
52.233-3 (DEV)	Protest after Award (Aug 1996) (DEVIATION NOV 2025)	
52.233-4 (DEV)	Applicable Law for Breach of Contract Claim (Oct 2004) (DEVIATION NOV 2025)	
52.236-6 (DEV)	Superintendence by the Contractor (Apr 1984) (DEVIATION AUG 2025)	
52.236-7 (DEV)	Permits and Responsibilities (Nov 1991) (DEVIATION AUG 2025)	
52.236-8 (DEV)	Other Contracts (Apr 1984) (DEVIATION AUG 2025)	

Clause	Title	Fill-ins (if applicable)
52.236-9 (DEV)	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (Apr 1984) (DEVIATION AUG 2025)	
52.236-10 (DEV)	Operations and Storage Areas (Apr 1984) (DEVIATION AUG 2025)	
52.236-11 (DEV)	Use and Possession Prior to Completion (Apr 1984) (DEVIATION AUG 2025)	
52.236-12 (DEV)	Cleaning Up (Apr 1984) (DEVIATION AUG 2025)	
52.236-21 (DEV)	Specifications and Drawings for Construction (Feb 1997) (DEVIATION AUG 2025)	
52.240-91 (DEV)	Security Prohibitions and Exclusions (DEVIATION NOV 2025)	
52.244-6 (DEV)	Subcontracts for Commercial Products and Commercial Services (Jan 2025) (DEVIATION APR 2026)	
52.253-1 (DEV)	Computer Generated Forms (Jan 1991) (DEVIATION NOV 2025)	
52.222-3 (DEV)	Convict Labor (June 2003) (DEVIATION DEC 2025)	
52.225-1 (DEV)	Buy American-Supplies (Oct 2022) (DEVIATION DEC 2025)	
52.228-15	Performance and Payment Bonds-Construction (Jun 2020)	
52.229-2 (DEV)	North Carolina State and Local Sales and Use Tax (Apr 1984) (DEVIATION AUG 2025)	
52.236-2 (DEV)	Differing Site Conditions (Apr 1984) (DEVIATION AUG 2025)	
52.236-3 (DEV)	Site Investigation and Conditions Affecting the Work (Apr 1984) (DEVIATION AUG 2025)	
52.236-5 (DEV)	Material and Workmanship (Apr 1984) (DEVIATION AUG 2025)	
52.236-13 (DEV)	Accident Prevention (Nov 1991) (DEVIATION AUG 2025)	

Clause	Title	Fill-ins (if applicable)
52.236-14 (DEV)	Availability and Use of Utility Services (Apr 1984) (DEVIATION AUG 2025)	
52.236-17 (DEV)	Layout of Work (Apr 1984) (DEVIATION AUG 2025)	

Clauses By Full Text

52.211-12 Liquidated Damages-Construction (Sept 2000)

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of $1,508.17 [*Contracting Officer insert amount*] for each calendar day of delay until the work is completed or accepted.

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

(End of clause)

52.212-4 (DEV) Terms and Conditions-Commercial Products and Commercial Services (Nov 2023) (DEVIATION NOV 2025)

(a) *Definitions*. The clause at Federal Acquisition Regulation (FAR) 52.202-1, Definitions, is incorporated by reference.

(b) *Inspection/Acceptance*. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post acceptance rights—

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

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

(c) *Assignment*. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (*e.g.,* use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(d) *Changes*. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(e) *Disputes*. This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal, or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause FAR 52.233-1, Disputes, which is incorporated in this contract by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(f) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence. Examples of occurrences include acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics,

quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. When an excusable delay occurs, the Contractor shall—

(1) Notify the Contracting Officer in writing as soon as possible;

(2) Remedy the delay as quickly as possible; and

(3) Notify the Contracting Officer when the occurrence is over.

(g) Invoice. The Government will handle invoices according to the Prompt Payment Act (31 U.S.C. 3903) and 5 CFR part 1315. The Contractor shall submit invoices to the address designated in the contract to receive invoices. An invoice must include the information required by 5 CFR part 1315.9(b).

(h) *Patent indemnity*. The Contractor shall indemnify the Government and its officers, employees, and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment*—

(1) *Items accepted*. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment*. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) *Discount*. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(4) *Overpayments*. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected line item or subline item, if applicable;

(D) Contractor point of contact; and

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(5) *Interest*.

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final decisions*. The Contracting Officer will issue a final decision as required by FAR part 33 if–

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see FAR part 32).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a termination for cause.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on-

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures for interest credits prescribed in FAR part 32 in effect on the date of this contract.

(j) *Risk of loss*. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon—

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes*. The contract price includes all applicable Federal, State, and local taxes and duties.

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

(m) *Termination for cause*. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. The Government will send a cure notice to the Contractor, unless the reason for the termination is late delivery. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be

liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

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

(p) *Limitation of liability*. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Compliance with laws unique to Government contracts*. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 49 U.S.C. 40118, Government-financed air transportation; and 41 U.S.C. chapter 21 relating to procurement integrity.

(r) *Order of precedence*. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services;

(2) The Disputes, Payments, Invoice, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause;

(3) Other contract clauses incorporated in the solicitation or contract;

(4) Addenda to this solicitation or contract;

(5) Solicitation provisions incorporated in the solicitation;

(6) Other paragraphs of this clause;

(7) Other documents, exhibits, and attachments; and

(8) The specification.

(s) *Unauthorized obligations*.

(1) Except as stated in paragraph (s)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government-authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an “I agree” click box or other comparable mechanism (e.g., “click-wrap” or “browse-wrap” agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (s)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(t) *Comptroller General examination of record*. This paragraph applies if this contract was awarded using other than sealed bid procedures and is in excess of the simplified acquisition threshold on the date of award of this contract.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices, at all reasonable times, the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR part 4, longer period required by statute, or periods specified in other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This clause does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(u) *Incorporation by reference*. 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)

52.212-4 is hereby tailored IAW FAR Dev 12.205(b)(1)(ii):

(b) Inspection/Acceptance IAW FAR Dev 52.246-12. IAW FAR Dev 52.225-9

(d) Changes. IAW FAR Dev 52.243-5.

(i) Payment. IAW FAR 52.232-5. IAW FAR 52.232.23. IAW FAR 52.232-27

(e) Disputes. IAW FAR Dev 52.233-1. IAW FAR Dev 52.222-1

(o) Warranty. IAW FAR 52.246-21

(m) Termination for cause and (f) Excusable Delays. IAW FAR 52.249-10. IAW FAR 52.249-1

(q) *Compliance with laws unique to Government contracts*. IAW FAR 52.203-12

2852.212-4 Contract Terms and Conditions, Commercial Items (FAR Deviation) (NOV 2020)

When a commercial item is contemplated (using FAR part 12 procedures or otherwise) and the contract will include FAR 52.212-4, the following replaces subparagraph (g)(2); paragraph (h); subparagraph (i)(2); paragraph (s); and paragraph (u), Unauthorized Obligations, of the basic FAR clause, and adds paragraph (w), as follows:
(g)(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment act regulations at 5 CFR part 1315, as modified by subparagraph (i)(2), *Prompt payment,* of this clause.
* * * * *
(h) *Patent indemnity.* Contractor shall indemnify and hold harmless the Government and its respective affiliates, officers, directors, employees, agents, successors and assigns (collectively, "Indemnities") from and against any and all liability and losses incurred by the Indemnities that are (i) included in any settlement and/or (ii) awarded by a court of competent jurisdiction arising from or in connection with any third party claim of infringement made against Indemnities asserting that any product or service supplied under this contract constitutes infringement of any patent, copyright, trademark, service mark, trade name or other proprietary or intellectual right. This indemnity shall not apply unless Contractor shall have been informed within a reasonable time by the Government of the claim or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. This indemnity also shall not apply to any claim unreasonably settled by the Government which obligates Contractor to make any admission or pay any amount without written consent signed by an authorized officer of Contractor, unless required by final decree of a court of competent jurisdiction.

* * * * *

(i)(2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations (5 CFR part 1315), with the following modification regarding the due date: For the sole purpose of computing an interest penalty due the Contractor, the Government agrees to inspect and determine the acceptability of any supply delivered or service performed specified in the invoice within thirty (30) days of receipt of a proper invoice from the Contractor, after which time, if no affirmative action has been taken by the Government to accept such supply or service, the supply or service will be deemed accepted and payment due thirty (30) days from the date of deemed acceptance. If the Government makes the determination that the item delivered or service performed is deficient or otherwise unacceptable, or the invoice is otherwise determined not to be a proper invoice, the terms and conditions of this paragraph regarding prompt payment will apply to the date the Contractor corrects the deficiency in the item delivered or service performed or submits a proper invoice. If actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

* * * * *

(s) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts provisions of the basic FAR clause at 52.212-4, and the Unauthorized Obligations and Contractor's Commercial Supplier Agreements—Unenforceable Clauses provisions of JAR 2852.212-4.

(3) FAR 52.212-5.

(4) Other paragraphs of the basic FAR clause at 52.212-4, with the exception of paragraph (o), Warranty, and those paragraphs identified in this deviation of 52.212-4.

(5) Addenda to this solicitation, contract, or order, including contractor's Commercial supplier agreements incorporated into the contract.

(6) Solicitation provisions if this is a solicitation.

(7) Paragraph (o), Warranty, of the basic FAR clause at 52.212-4.

(8) The Standard Form 1449.

(9) Other documents, exhibits, and attachments.

(10) The specification.

* * * * *

(u) *Unauthorized obligations.*

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract or order is subject to any Commercial supplier agreement that includes any language, provision, or clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (see 31 U.S.C. 1341), the following shall govern:

(i) Any such language, provision, or clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the commercial supplier agreement. If the commercial supplier agreement is invoked through an “I agree” click box or other similar mechanism (*e.g.,* “click-wrap” or “browse-wrap” agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such language, provision, or clause is deemed to be stricken from the commercial supplier agreement and have no effect.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

* * * * *

(w) *Commercial supplier agreements—unenforceable clauses.* When any supply or service acquired under this contract or order is subject to a contractor's commercial supplier agreement, the following shall be deemed incorporated into such agreement and modifies and replaces any similar language, provision, or clause in such agreement. As used herein, “this agreement” means any contractor commercial supplier agreement:

(1) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the U.S. Government, the following shall apply:

(i) *Applicability.* This agreement is a part of a contract between commercial supplier and the U.S. Government for the acquisition of the supply or service that necessitates a license or other similar legal instrument (including all contracts, task orders, and delivery orders under FAR part 12).

(ii) *End user.* This agreement shall bind the Government as end user but shall not operate to bind the Government employee or person acting on behalf of the Government in his or her personal capacity.

(iii) *Law and disputes.* This agreement is governed by Federal law.

(A) Any language, provision, or clause purporting to subject the U.S. Government to the laws of any U.S. state, territory, district, or municipality, or the laws of a foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted and shall have no effect.
(B) Any language, provision, or clause requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted and shall have no effect.
(C) Any language, provision, or clause prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted and shall have no effect.
(iv) *Continued performance.* Notwithstanding any other provision in this agreement, if the Contractor believes the Government to be in breach of this contract, order, or agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute while continuing performance as set forth in subparagraph (d), Disputes, of FAR 52.212-4.
(v) *Arbitration; equitable or injunctive relief.* In the event of a claim or dispute arising under or relating to the contract, order, or this agreement, (A) binding arbitration shall not be used unless otherwise specifically authorized by agency guidance, and (B) equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the Government only when explicitly provided by statute.
(vi) *Updating terms.*
(A) After award, the contractor may unilaterally revise terms if they are not material. Material terms are defined as:
(1) Terms that change Government rights or obligations;
(2) Terms that increase Government prices;
(3) Terms that decrease the overall level of service; or
(4) Terms that limit any other Government right addressed elsewhere in this contract.
(B) For revisions that materially change the terms of the contract, the revised commercial supplier agreement must be incorporated into the contract using a bilateral modification.
(C) Any agreement terms or conditions unilaterally revised subsequent to award that are inconsistent with any material term or provisions of this contract shall not be enforceable against the Government, and the Government shall not be deemed to have consented to them.
(vii) *Order of precedence.* Any Order of Precedence clause in any commercial supplier agreement is not enforceable against the Government. The applicable Order of Precedence for this contract, order, or agreement is FAR 52.212-4(s), as revised by JAR 2812.302 and 2852.212-4(s).
(viii) *No automatic renewals.* If any license or service tied to period payment is provided under this agreement (*e.g.,* annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express consent by a properly warranted contracting officer, and any provision or term of any license or service purporting to provide for automatic renewal is unenforceable against the Government.
(ix) *Indemnification by the Government or end-user.* Any language, provision, or clause of this commercial supplier agreement requiring the Government or End-user to indemnify the commercial supplier or licensor is not enforceable against the Government.
(x) *Indemnification by the commercial supplier or licensor.* Any clause of this agreement requiring or permitting the commercial supplier or licensor to defend the Government as a condition of indemnifying the Government for any claim of infringement is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.
(xi) *Audits.* Any language, provision, or clause of this commercial supplier agreement permitting Contractor to audit the end user's compliance with this agreement is not enforceable against the Government. To the extent any language, provision or clause of this agreement permits Contractor to audit the Government's compliance under this contract, order, or agreement, such language, provision, or clause of this agreement is hereby stricken and replaced as follows:
“(A) If Contractor reasonably believes that the Government has violated the terms of this agreement with regard to the restrictions on authorized use and/or the number of authorized users, upon written request from Contractor, including an explanation of the basis for the request, DOJ will provide a redacted version of the Government's most recent Security Assessment and Authorization package (SAA) to Contractor on a confidential basis, so that Contractor may reasonably verify the Government's compliance with its obligations under this agreement. Contractor understands and agrees that the Government will remove or redact any information from the SAA that it reasonably believes may compromise (a) the security of the Government's information technology environment; (b) the confidentiality of any third-party proprietary or confidential information; (c) any confidential, sensitive law enforcement information; and (d) any other information that the Government believes may compromise a past, current, or prospective investigation, prosecution, or litigation. Notwithstanding the preceding, and subject to the Government's policies and procedures for such review, including but not limited to complying with all Government security requirements prior to being granted access to the Government's facilities, including the execution of appropriate confidentiality and/or non-disclosure agreements, the Government will arrange, upon Contractor's written request, for Contractor to view an un-redacted version of the SAA on Government premises. Contractor understands that Contractor will be provided a copy of the un-redacted SAA on Government premises only and that no un-redacted copy of the SAA, or any medium containing information relating to it, will be permitted to be removed from Government premises.

(B) The Contractor also understands and agrees that the Contractor shall make a request under this paragraph no more than on an annual basis and only during the period of the contract, and that any activities performed by Contractor under this clause will be performed at Contractor's expense, without reimbursement by the Government.
(C) Discrepancies found with regard to the restrictions on authorized use and/or the number of authorized users may result in a charge by Contractor to the Government. Any resulting invoice must comply with the proper invoicing and payment requirements specified in the contract. This charge, if disputed by the Government, will be resolved through the Disputes clause at 52.212-4(d); no payment obligation shall arise on the part of the Government until the conclusion of the dispute process."
(xii) *Taxes or surcharges.* Any taxes or surcharges which the Contractor seeks to pass along to the Government as end user will be governed by the terms of the underlying Government contract and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the Government contract.
(xiii) *Non-assignment.* This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the Government's prior approval, except as expressly permitted under FAR 52.212-4 (b), Assignment.
(xiv) *Confidential information.*
(A) During the term of this contract or order, either party may identify information as "confidential information," and there shall be no disclosure, dissemination, or publication of any such information except to the extent required for the performance of this contract or order and otherwise provided in this clause or by statute or regulation. Specifically, the parties agree that the party receiving confidential information may only disclose such information to its employees and contractors on a "need-to-know" basis to carry out the obligations of this contract or order, and that subcontractors performing under this Agreement are subject to the same stipulations provided in this provision. The parties also agree that this provision shall survive the termination of this contract or order, and any confidential information obtained or received which comes within these restrictions shall remain confidential, provided that the obligation to treat information as confidential shall not apply to information which is or becomes publicly available through no improper action of the receiving party; is or comes to be in the receiving party's possession independent of its relationship with the disclosing party; is developed by or becomes known to the receiving party without use of any confidential information of the disclosing party; or is obtained rightfully from a third party not bound by an obligation of confidentiality. Additionally, nothing in this contract or order shall restrict disclosure by the receiving party pursuant to any applicable law, including but not limited to the Freedom of Information Act, 5 U.S.C. 552, *et seq.,* or an order of any court of competent jurisdiction, provided that in either such case the receiving party gives prompt notice to the disclosing party to allow the disclosing party to interpose an objection to such disclosure, take action to assure confidential handling of the confidential information, or take such other action as it deems appropriate to protect its confidential information.
(B) The Government considers and hereby identifies as confidential any and all information related to any inquiries and/ or searches performed by the Government or by contractor at the Government's direction under this contract or order, including the subject of any such inquiry or search and any and all search terms, regardless of whether provided in writing or orally to Contractor, and Contractor agrees that it may only disclose such information to its employees and contractors on a "need-to-know" basis to carry out the obligations of this contract or order and that it will not share, reveal, divulge, disclose, disseminate, or publicize any such information to any third party except as provided in this provision without the prior written approval of the Contracting Officer. Contractor also understands and agrees that any subcontractors performing under this contract or order are subject to the same stipulations and that Contractor may be held responsible for any violations of confidentiality by a subcontractor.
(C) These provisions are consistent with and do not supersede, conflict with, or otherwise alter an employee's obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by Executive orders and statutory provisions relating to whistleblower protection are incorporated into this contract and are controlling.
(D) The Government may share the terms, conditions and prices set forth in this Order with, and provide a copy of the Order to, other Executive branch agencies of the U.S. Government, provided that the Government shall ensure that other Executive branch agencies to which it provides such information will be required to treat all such information consistent with terms and conditions set forth in this Order.
(E) Notwithstanding anything in this agreement, the Government may retain any confidential information as required by law, regulation, or its internal document retention procedures for legal, regulatory, or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this Order.
(xv) *Authorized users.* Authorized users may include full and part-time employees of the Government, including those working at or from remote locations, and contractors and contractor employees working within the scope of their contract with the Government, including those at or from remote locations.

(xvi) *Authorized use.* Authorized users are authorized to use the product or service acquired under this contract in performing business on behalf of the Government. Any information obtained or acquired by the Government under this contract may be used by the Government in the performance of Government business.
(2) If any language, provision, or clause of this agreement conflicts or is inconsistent with the preceding paragraph (w)(1), the language, provisions, or clause of paragraph (w)(1) shall prevails to the extent of such inconsistency.

BOP 2852.201-71 Contracting Officer's Representative (COR) (June 2012)

(a)N. Fuller ,Engineering Technician , FCC Butner,919-575-4541 ext 3156, is hereby designated as the Contracting Officer's Representative (COR) under this contract.
(b) The COR is responsible, as applicable, for: receiving all deliverables, inspecting and accepting the supplies or services provide hereunder in accordance with the terms and conditions of this contract; providing direction to the contractor which clarifies the contractor effort, fills in details or otherwise serves to accomplish the contractual Scope of Work; evaluating performance; and certifying all invoices/vouchers for acceptance of the supplies or services furnished for payment.
(c) The COR does not have the authority to alter the contractor's obligations under the contract, and/or modify any of the expressed terms, conditions, specifications, or cost of the agreement. If as a result of technical discussions it is desirable to alter/change contractual obligations or the Scope of Work, the Contracting Officer shall issue such changes.

DOJ-02 Contractor Privacy Requirements (JAN 2022)

A. Limiting Access to Privacy Act and Other Sensitive Information

(1) Privacy Act Information

In accordance with FAR 52.224-1 Privacy Act Notification (APR 1984) and FAR 52.224-2 Privacy Act (APR 1984), if this contract requires Contractor personnel to have access to information protected by the Privacy Act of 1974, the contractor is advised that the relevant DOJ system of records notices (SORNs) applicable to this Privacy Act information may be found at https://www.justice.gov/opcl/doj-systems-records.[1] Applicable SORNs published by other agencies may be accessed through those agencies' websites or by searching the Federal Digital System (FDsys) available at http://www.gpo.gov/fdsys/. SORNs may be updated at any time.

(2) Prohibition on Performing Work Outside a Government Facility/Network/Equipment

Except where use of Contractor networks, IT, other equipment, or Workplace as a Service (WaaS) is specifically authorized within this contract, the Contractor shall perform all tasks on authorized Government networks, using Government-furnished IT and other equipment and/or WaaS and Government information shall remain within the confines of authorized Government networks at all times. Any handling of Government information on Contractor networks or IT must be approved by the Senior Component Official for Privacy of the component entering into this contract. Except where remote work is specifically authorized within this contract, the Contractor shall perform all tasks described in this document at authorized Government facilities; the Contractor is prohibited from performing these tasks at or removing Government-furnished information to any other facility; and Government information shall remain within the confines of authorized Government facilities at all times. Contractors may only access classified materials on government furnished equipment in authorized government owned facilities regardless of remote work authorizations.

(3) Prior Approval Required to Hire Subcontractors

The Contractor is required to obtain the Contracting Officer's approval prior to engaging in any contractual relationship (Subcontractor) in support of this contract requiring the disclosure of information, documentary material and/or records generated under or relating to this contract. The Contractor (and any Subcontractor) is required to abide by Government and Agency guidance for protecting sensitive and proprietary information.

(4) Separation Checklist for Contractor Employees

The Contractor shall complete and submit an appropriate separation checklist to the Contracting Officer before any employee or Subcontractor employee terminates working on the contract. The Contractor must submit the separation checklist on or before the last day of employment or work on the contract. The separation checklist must verify: (1) return of any Government-furnished equipment; (2) return or proper disposition of personally identifiable information (PII)[2], in paper or electronic form, in the custody of the employee or Subcontractor employee including the sanitization of data on any computer systems or media as appropriate; and (3) termination of any technological access to the Contractor's facilities or systems that would permit the terminated employee's access to PII or other sensitive information.

In the event of adverse job actions resulting in the dismissal of a Contractor or Subcontractor employee before the separation checklist can be completed, the Prime Contractor must notify the Contracting Officer within 24 hours and confirm receipt of the notification. In the case the Contractor is unable to notify the Contracting Officer, then the Contractor should notify the Contract Officer's Representative (COR).

Contractors must complete the separation checklist with the Contracting Officer or COR by returning all Government-furnished property including, but not limited to, computer equipment, media, credentials and passports, smart cards, mobile devices, Personal Identity Verification (PIV) cards, calling cards, and keys and terminating access to all user accounts and systems. Unless the Contracting Officer requests otherwise, the relevant Program Manager or other Key Personnel designated by the Contracting Officer or COR may facilitate the return of equipment.

B. Privacy Training, Safeguarding, and Remediation

(1) Required Security and Privacy Training for Contractors

The Contractor must ensure that all employees take appropriate privacy training, including Subcontractors who have access to PII as well as the creation, use, dissemination and/or destruction of PII at the outset of the employee's work on the contract and every year thereafter. Training must include procedures on how to properly handle PII, including heightened security requirements for the transporting or transmission of sensitive PII, and reporting requirements for a suspected breach or loss of PII. These courses, along with more information about DOJ security and training requirements for Contractors, are available at https://www.justice.gov/jmd/learndoj. The Federal Information Security Modernization Act of 2014 (FISMA) requires all individuals accessing DOJ information to complete training on records management, cybersecurity awareness, and information system privacy awareness. Contractor employees are required to sign the "Privacy Rules of Behavior," acknowledging and agreeing to abide by privacy law, policy, and certain privacy safeguards, prior to accessing DOJ information. These Rules of Behavior are made available to all new users of DOJ's computer network and to trainees at the conclusion of DOJ-OPCL-CS-0005.

The Contractor should maintain copies of certificates as a record of compliance and must submit an email notification annually to the COR verifying that all employees working under this contract have completed the required privacy and cybersecurity training.

(2) Safeguarding PII Requirements

Contractor employees must comply with DOJ Order 0904 and other guidance published to the publicly-available Office of Privacy and Civil Liberties (OPCL) Resources page[3] relating to the safeguarding of PII, including the use of additional controls to safeguard sensitive PII (e.g., the encryption of sensitive PII). This requirement flows down from the Prime Contractor to all Subcontractors and lower tiered subcontracts.

(3) Non-Disclosure Agreement Requirement

Prior to commencing work, all Contractor personnel that may have access to PII or other sensitive information shall be required to sign a Non-Disclosure Agreement (NDA) and the DOJ IT Rules of Behavior. The Non-Disclosure Agreement:

(a) prohibits the Contractor from retaining or divulging any PII or other sensitive information, or derivatives therefrom, furnished by the Government or to which they may otherwise come in contact as a result of their performance of work under the contract/task order that is otherwise not publicly available, whether or not such information has been reduced to writing; and

(b) requires the Contractor to report any loss of control, compromise, unauthorized disclosure, or unauthorized acquisition of PII or other sensitive information to the component-level or headquarters Security Operations Center within one (1) hour of discovery.

The Contractor should maintain signed copies of the NDA for all employees as a record of compliance. The Contractor should also provide copies of each employee's signed NDA to the Contracting Officer before the employee may commence work under the contract/task order.

(4) Prohibition on Use of PII in Vendor Billing and Administrative Records

The Contractor's invoicing, billing, and other financial or administrative records or databases is not authorized to regularly store or include any sensitive PII or other confidential government information that is created, obtained, or provided during the performance of the contract without the written permission of the Senior Component Official for Privacy (SCOP). It is acceptable to list the names, titles and contact information for the Contracting Officer, COR, or other personnel associated with the administration of the contract in the invoices as needed.

(5) Reporting Actual or Suspected Data Breach

Contractors must report any actual or suspected breach of PII within one hour of discovery.[4] A "breach" is an incident or occurrence that involves the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, or any similar occurrence where: (1) a person other than an authorized user accesses or potentially accesses PII or (2) an authorized user accesses or potentially accesses PII for an other than authorized purpose. The report of a breach must be made to DOJ. The Contractor must cooperate with DOJ's inquiry into the incident and efforts to minimize risks to DOJ or individuals, including remediating any harm to potential victims.

(a) The Contractor must develop and maintain an internal process by which its employees and Subcontractors are trained to identify and report the breach, consistent with DOJ Instruction 0900.00.01[5], Reporting and Response Procedures for a Breach of Personally Identifiable Information.

(b) The Contractor must report any such breach by its employees or Subcontractors to the DOJ Security Operations Center (dojcert@usdoj.gov, 202-357-7000); Component-level Security Operations Center and Component-level Management Team, where appropriate; the COR; and the Contracting Officer within one (1) hour of the initial discovery.

(c) The Contractor must provide a written report to the DOJ Security Operations Center (dojcert@usdoj.gov, 202-357-7000) within 24 hours of discovery of the breach by its employees or Subcontractors. The report must contain the following information:

(i) Narrative or detailed description of the events surrounding the suspected loss or compromise of information.[6] Date, time, and location of the incident.
(ii) Amount, type, and sensitivity of information that may have been lost or compromised, accessed without authorization, etc.
(iii) Contractor's assessment of the likelihood that the information was compromised or lost and the reasons behind the assessment.[7]
(iv) Names and classification of person(s) involved, including victim, Contractor employee/Subcontractor and any witnesses.
(v) Cause of the incident and whether the company's security plan was followed and, if not, which specific provisions were not followed.[8]
(vi) Actions that have been or will be taken to minimize damage and/or mitigate further compromise.
(vii) Recommendations to prevent similar situations in the future, including whether the security plan needs to be modified in any way and whether additional training may be required.

(d) The Contractor shall provide full access and cooperation for all activities determined by the Government to be required to ensure an effective incident response, including providing all requested images, log files, and event information to facilitate rapid resolution of sensitive information incidents.

(e) At the Government's discretion, Contractor employees or Subcontractor employees may be identified as no longer eligible to access PII or to work on that contract based on their actions related to the loss or compromise of PII.

(6) Victim Remediation

At DOJ's request, the Contractor is responsible for notifying victims and providing victim remediation services in the event of a breach of PII held by the Contractor, its agents, or its Subcontractors, under this contract. Victim remediation services shall include at least 18 months of credit monitoring and, for serious or large incidents as determined by the Government, call center help desk services for the individuals whose PII was lost or compromised. When DOJ requests notification, the Department Chief Privacy and Civil Liberties Officer and SCOP will direct the Contractor on the method and content of such notification to be sent to individuals whose PII was breached. By performing this work, the Contractor agrees to full cooperation in the event of a breach. The Contractor should be self-insured to the extent necessary to handle any reasonably foreseeable breach, with another source of income, to fully cover the costs of breach response, including but not limited to victim remediation.

C. Government Records Training, Ownership, and Management

(1) Records Management Training and Compliance

(a) The Contractor must ensure that all employees and Subcontractors that have access to PII as well as to those involved in the creation, use, dissemination and/or destruction of PII take the *DOJ Records and Information Training for New Employees (RIM)* training course or another training approved by the Contracting Officer or COR. This training will be provided at the outset of the Subcontractor's/employee's work on the contract and every year thereafter. The Contractor shall maintain copies of certificates as a record of compliance and must submit an email notification annually to the COR verifying that all employees working under this contract have completed the required records management training.

(b) The Contractor agrees to comply with Federal and Agency records management policies, including those policies associated with the safeguarding of records containing PII and those covered by the Privacy Act of 1974. These policies include the preservation of all records created or received regardless of format, mode of transmission, or state of completion.

(2) Records Creation, Ownership, and Disposition

(a) The Contractor shall not create or maintain any records not specifically tied to or authorized by the contract using Government IT equipment and/or Government records or that contain Government Agency information. The Contractor shall certify, in writing, the appropriate disposition or return of all Government information at the conclusion of the contract or at a time otherwise specified in the contract. In accordance with 36 CFR 1222.32, the Contractor shall maintain and manage all Federal records created in the course of performing the contract in accordance with Federal law. Records may not be removed from the legal custody of DOJ or destroyed except in accordance with the provisions of the agency records schedules.

(b) Except as stated in the Performance Work Statement and, where applicable, the Contractor's Commercial License Agreement, the Government Agency owns the rights to all electronic information (electronic data, electronic information systems or electronic databases and all supporting documentation and associated metadata created as part of this contract. All deliverables (including all data and records) under the contract are the property of the U.S. Government and may be considered federal records, for which the Agency shall have unlimited rights to use, dispose of, or disclose such data contained therein. The Contractor must deliver sufficient technical documentation with all data deliverables to permit the agency to use the data.

(c) The Contractor shall not retain, use, sell, disseminate, or dispose of any government data/records or deliverables without the express written permission of the Contracting Officer or Contracting Officer's Representative. The Agency and its contractors are responsible for preventing the alienation or unauthorized destruction of records, including all forms of mutilation. Willful and unlawful destruction, damage or alienation of Federal records is subject to the fines and penalties imposed by 18 U.S.C. § 2701. Records may not be removed from the legal custody of the Agency or destroyed without regard to the provisions of the Agency records schedules.

D. Data Privacy and Oversight

(1) Restrictions on Testing or Training Using Real Data Containing PII

The use of real data containing PII from any source for testing or training purposes is generally prohibited. The Contractor shall use synthetic or de-identified real data for testing or training whenever feasible.

(2) Requirements for Contractor IT Systems Hosting Government Data

The Contractor is required to obtain an Authority To Operate (ATO) for any IT environment owned or controlled by the Contractor or any Subcontractor on which Government data shall reside for the purposes of IT system development, design, data migration, testing, training, maintenance, use, or disposal.

(3) Requirement to Support Privacy Compliance

(a) If this contract requires the development, maintenance or administration of information technology[9], the Contractor shall support the completion of the Initial Privacy Assessment (IPA) document, if requested by Department personnel. An IPA is the first step in a process to identify potential privacy issues and mitigate privacy risks. The IPA asks basic questions to help components assess whether additional privacy protections may be needed in designing or implementing a project[10] to mitigate privacy risks, and whether compliance work may be needed. Upon review of the IPA, the OPCL determines whether a Privacy Impact Assessment (PIA) document and/or SORN, or modifications thereto, are required. The Contractor shall provide adequate support to complete the applicable risk assessment and PIA document in a timely manner, and shall ensure that project management plans and schedules include the IPA, PIA, and SORN (to the extent required) as milestones. Additional information on the privacy compliance process at DOJ, including IPAs, PIAs, and SORNs, is located on the DOJ OPCL website (https://dojnet.doj.gov/privacy/), including DOJ Order 0601, Privacy and Civil Liberties. The Privacy Impact Assessment Guidance and Template outline the requirements and format for the PIA.

(b) If the contract involves an IT system build or substantial development or changes to an IT system that may require privacy risk assessment and documentation, the Contractor shall provide adequate support to DOJ to ensure DOJ can complete any required assessment, and IPA, PIA, SORN, or other supporting documentation to support privacy compliance. The Contractor shall work with personnel from the program office, OPCL, the Office of the Chief Information Officer (OCIO), and the Office of Records Management and Policy to ensure that the privacy assessments and documentation are kept on schedule, that the answers to questions in the documents are thorough and complete, and that questions asked by the OPCL and other offices are answered in a timely fashion. The Contractor must ensure the completion of required PIAs and documentation of privacy controls consistent with federal law and standards, e.g. NIST 800-53, Rev. 5; and compliance with the Privacy Act of 1974, E-Government Act of 2002, Federal Information Security Modernization Act of 2014, and key OMB guidelines, e.g., OMB Circular A-130.

[1] “[T]he term ‘record’ means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.” 5 U.S.C. § 552a(a)(4). “[T]he term ‘system of records’ means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.” 5 U.S.C. § 552a(a)(5).
[2] As stated in FAR 52.224-3 and Office of Management and Budget (OMB) Circular A-130, Managing Federal Information as a Strategic Resource (2016), “’personally identifiable information’ means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual.” Regarding “sensitive PII,” “[t]he sensitivity level of the PII will depend on the context, including the purpose for which the PII is created, collected, used, processed, stored, maintained, disseminated, disclosed, or disposed. For example, the sensitivity level of a list of individuals’ names may depend on the source of the information, the other information associated with the list, the intended use of the information, the ways in which the information will be processed and shared, and the ability to access the information.” OMB Circular A-130, at App. II-2.
[3] The DOJ OPCL Resources page is available at https://www.justice.gov/opcl/resources.
[4] As stated in DOJ Instruction 0900, “Contractors must notify the Contracting Officer, the Contracting Officer’s Representative, and JSOC (or component-level SOC) within 1 hour of discovering any incidents, including breaches, consistent with this Instruction, guidance issued by the CPCLO, NIST standards and guidelines, and the US-CERT notification guidelines.”
[5] https://www.justice.gov/file/4336/download
[6] As stated in DOJ Instruction 0900, the description should include the type of information that constitutes PII; purpose for which PII is collected, maintained, and used; extent to which PII identifies a peculiarly vulnerable population; the determination of whether the information was properly encrypted or rendered partially or completely inaccessible by other

means; format of PII (e.g., whether PII was structured or unstructured); length of time PII was exposed; any evidence confirming that PII is being misused or that it was never accessed.
[7] As stated in DOJ Instruction 0900, the report should include the nature of the cyber threat (*e.g.*, Advanced Persistent Threat, Zero Day Threat, data exfiltration) for cyber incidents.
[8] As stated in DOJ Instruction 0900, the report should include analysis on whether the data is accessible, usable, and intentionally targeted.
[9] As defined in 40 U.S.C. § 11101, the term “information technology” means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use (i) of that equipment or (ii) of that equipment to a significant extent in the performance of a service or the furnishing of a product; includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but does not include any equipment acquired by a federal contractor incidental to a federal contract.
[10] In this instance, the term “project” is used to scope the activities (e.g., creating, collecting, using, processing, storing, maintaining, disseminating, disclosing, or disposing of information) covered by an IPA. A project is intended to be technology-neutral, and may include an information system, a digital service, an information technology, a combination thereof, or some other activity that may create potential privacy issues or privacy risks that would benefit from an IPA. The scope of a project covered by an IPA is discretionary, but components should work with their SCOP and OPCL.

(End of Clause)

DOJ-03 Personnel Security Requirements For Contractor Employees (Nov 2021)

Work performed under this contract will involve any one or more of the following: access to DOJ Information, which may include Controlled Unclassified Information (CUI), i.e., unclassified, sensitive DOJ information, and/or access to DOJ Information Technology (IT) systems, and/or unescorted access to DOJ space or facilities. Contractor employees will occupy Public Trust Positions, unless clause alternates are applied.

1. General Requirements

(a) (1) All references to “contract(or) personnel” and “contract(or) employee” in this clause means all individuals, without limitation, to include individuals employed by the contractor, team member, subcontractor, consultant, and/or independent contractor, who will have access to information of the Department of Justice (DOJ) or information that is within the custody and control of the DOJ, access to DOJ IT systems, and/or unescorted access to DOJ facilities/space in connection with the performance of this contract. “Employment” as used herein does not create nor imply an employer/employee relationship between the DOJ and contractor employees.

(b) (1) The type of security investigation required for each contractor employee will be governed by the type and risk level of information made available to the contractor employee. The contractor will not be permitted to commence performance under this contract until a sufficient number of its personnel, as determined by the Security Programs Manager (SPM), in consultation with the Contracting Officer’s Representative if one is appointed, have received the requisite security approval.

(c) Except where specifically noted otherwise, the federal government will be responsible for the cost and conduct of the investigation.

(d) The contractor shall ensure that no contractor employee commences performance prior to receipt of a written authorization from the contracting officer, COR, or the SPM that performance by the respective contractor employee is authorized.

(e) The data and other information to which the contractor may have access as a result of this contract is the property of, and/or within the custody and control of, the Department, and its disclosure to third parties is governed by various statutes and regulations, the violation of which may subject the discloser to criminal penalties.

2. Citizenship and Residency Requirements

(a) Residency Requirement. (1) Contractor employees in Public Trust positions, both U.S. citizens and non-U.S. citizens, must meet the Department's residency requirement if they will require access to DOJ information, IT systems, or unescorted access to facilities. For three years (not necessarily consecutive years) out of the last five years immediately prior to employment under the Department contract the contractor employee must have: (i) resided in the U.S.; (ii) worked for the U.S. in a foreign country as either an employee or contractor in a federal civilian or military capacity; or, (iii) been a dependent of a federal civilian or military employee or contractor working for the U.S. in a foreign country. At the Department's sole discretion, the residency requirement may be waived by the Department Security Officer (DSO) for contractor employees on a case-by-case basis where justified by extenuating circumstances. The residency requirement does not apply to contractor employees residing in foreign countries that are hired to work in American embassies/ consulates/missions located outside of the United States and who require access to DOJ information, IT systems, or unescorted access *provided that* an adequate background investigation can be conducted, with favorable adjudication, as determined by the DSO.

(b) Citizenship. (1) Aside from the specific exceptions set forth in Section 1.2(b)(2), for Public Trust positions, the DOJ requires that contractor employees be U.S. citizens and nationals, or lawful permanent residents seeking U.S. citizenship. Any prospective non-U.S. citizen contractor employee who requires access to DOJ information systems, DOJ information, and/or unescorted facilities access must also have been granted a waiver as described below in paragraphs 1.2(d) and/or (e). The contractor is responsible for verifying that the non-U.S. citizens working under this contract are lawful permanent residents seeking U.S. citizenship.

(2) *Exception for Certain Non-U.S. Citizen Contractor Employees*: (i) Non-U.S. citizen expert witnesses, litigative consultants, and interpreters in rare foreign languages are not required to be lawful permanent residents seeking U.S. citizenship. However, they must be granted a waiver for access to unclassified DOJ information, whether CUI or not, DOJ IT systems, and/or unescorted facility access, as described below in paragraph 1.2(d) and (e), regardless of the duration of their duties. (ii) Non-U.S. Citizen contractor employees residing in foreign countries who are hired to work for the Department of Justice in American embassies/consulates/missions outside of the United States are not required to be lawful permanent residents seeking U.S. citizenship.

(c) Dual Citizenship. (1) U.S. citizens who hold dual citizenship with a foreign country are considered U.S. citizens within the meaning of this clause, and may be considered for, but are not entitled to, contract employment as U.S. citizens consistent with this clause. The means by which the contractor employee obtained or exercises his or her dual citizenship status will be a consideration in the Public Trust Investigation (PTI) adjudication, and/or waiver approval processes discussed in this clause.

(d) Access to DOJ Information Technology Systems. Non-U.S citizens are not authorized to access DOJ information technology (IT) systems or assist in the development, operation, management, or maintenance of DOJ IT systems, including providing IT system support, unless a waiver has been granted by the Head of the DOJ component or designee, with the prior concurrence of both the DSO and the DOJ Chief Information Officer, allowing computer access by the non-U.S. citizen. Such a waiver will be granted only in exceptional and unique circumstances on a case-by-case basis. It should be noted that the Justice Consolidated Office Network (JCON) is a sensitive DOJ IT system and any contractor employee who will need access to JCON must be a U.S. citizen or have received a waiver. In order for a waiver to be considered for approval: (1) There must be a compelling reason for using this individual as opposed to a U.S. citizen; (2) The type of personnel security vetting that has been conducted on the individual, and vetting results, that would mitigate risk; and (3) The waiver must be in the best interest of the federal government.

(e) Access to Unclassified DOJ Information and Unescorted Access to DOJ Facilities or Space. (1) Except as provided under 1.2(b)(2), non-U.S. citizens are not authorized to access DOJ information and/or unescorted access to DOJ facilities or space, unless a waiver has been granted by the DSO, allowing access by the non-U.S. citizen. Such a waiver will be granted on a case-by-case basis where justified at the discretion of the DSO.

3. <u>Background Investigation Requirements</u>

(a) (1) Unless otherwise stated below, all contractor personnel are subject to a Public Trust Investigation (PTI). The SPM will determine the type of investigation for each contractor employee based on the risk category (i.e., the nature of the position and degree of harm that could be caused by the individual in that position) and whether the position is long-term or short-term. The PTI risk categories are listed below.

(i) <u>High Risk Positions</u>. The minimum background investigation required is a Tier 4 (T4) investigation, and the five-year reinvestigation required is a Tier 4R (T4R) investigation. The 2017 version of the Standard Form (SF) 85P, Questionnaire for Public Trust Positions, is required.

(ii) Moderate Risk Positions. The minimum background investigation required is a Tier 2 (T2) investigation. The five-year reinvestigation required is a Tier 2R (T2R) investigation. The 2017 version of the SF-85P is required.
(iii) Low Risk/Non-Sensitive Positions. The minimum background investigation required for Low Risk/Non-Sensitive positions is a Tier 1 (T1) investigation and the required five-year reinvestigation is also a Tier 1 (T1) investigation. The SF 85, Questionnaire for Non-Sensitive Positions, is required.

(b) *Exception for Expert Witnesses*. Expert Witnesses, litigative consultants, and interpreters in rare foreign languages may not be subject to full background investigation requirements if alternative security requirements are approved by the DSO.

(c) *Short-Term U.S. Citizen Contractor Employees*. Other than the exception in Section 1.3(b), short-term contractor employees (6 months or less) who are U.S. citizens are not subject to a full background investigation, however, must receive an approved pre-employment background investigation waiver. The required forms to complete and submit are listed in Section 1.4(b) and (c)(2).

(d) *Long-Term U.S. Citizen Contractor Employees*. Other than the exception in Section 1.3(b), all long-term U.S. citizen employees (longer than 6 months) are subject to a full background investigation in the risk category appropriate to the position they will hold.

(e) *Non-U.S. Citizen Contractor Employees*. Other than the exception in 1.3(b), all non-U.S. citizen contractor employees regardless of performance duration (short or long term) are subject to a full background investigation in the risk category appropriate to the position they will hold.

(f) *Reciprocity*. (1) A Public Trust Investigation will be accepted under reciprocity if it meets the following guidelines: (i) the investigation is current (investigations are considered current if completed within the last five years) and favorably adjudicated, or the reinvestigation has been deferred; (ii) the investigation meets or exceeds the level of investigation required for the DOJ contractual instrument; (iii) there has been no continuous (not cumulative) break in federal contract/ service employment of two years or more; (iv) there is no derogatory information since the favorable fitness determination or adjudication that calls into question the individual's fitness based on character or conduct; and (v) the investigative record does not show conduct that is incompatible with the core duties of the new contract position. A "core duty" is a continuing responsibility that is of particular importance to the relevant covered position or the achievement of an agency's mission. Core duties will vary from position to position.

4. Background Investigation Process

(a) *e-QIP (or its successor)*. Public Trust background investigations/reinvestigations of contractor employees will be performed by the DCSA. The investigative process requires contractor employees to complete the Electronic Questionnaires for Investigations Processing (e-QIP) and provide additional information as specified in paragraph 1.4(b) below. Immediately after contract award, the contractor shall designate an employee as its "e-QIP Initiator" and provide the name of this person to the SPM. The e-QIP Initiator must have, at a minimum, a favorably adjudicated Tier 1 investigation and the appropriate DOJ security approval before being given access to e-QIP. After the e-QIP Initiator's security approval is granted, the Contractor will be configured in e-QIP as a sub-agency to DOJ. The contractor will then be responsible for initiating investigations for all contract personnel, whose previous investigation does not meet reciprocity, in e-QIP for completion of the security questionnaire form and forwarding the electronic form with the remainder of the security package to the SPM. Subject to the prior written approval of the SPM, the contractor may designate an e-QIP Initiator for each subcontractor. Subcontractor e-QIP Initiators must have, at a minimum, a favorably adjudicated Tier 1 investigation and the appropriate DOJ security approval before being provided access to e-QIP.

(b) *Additional Documentation*. (1) In addition to completing the e-QIP questionnaire (see 1.4(a), above), the contractor shall ensure that each contractor employee occupying Public Trust Positions, including short-term employees, completes and submits the following information through the contractor's Corporate Security Officer:

(i) Digital Fingerprinting/FD-258 Applicant Fingerprint Card. Two sets are required per applicant. The contractor may schedule appointments with the SPM to be digitally fingerprinted; otherwise, fingerprinting by the FBI or other law enforcement entity, as approved by the SPM, is required to ensure the identity of the person being fingerprinted and for printing quality. All pertinent information must be completed by the individual taking the fingerprints (FBI or other). Use of the physical FD-258 Applicant Fingerprint Card should only be used in extenuating circumstances.

(ii) DOJ-555 Fair Credit Reporting Act Disclosure. Authorizes DOJ to obtain one or more consumer/credit reports on the individual. This form will be required if the Component SPM determines a credit check is necessary for its Low Risk Level 1 contractor positions.
(iii) OF-306, Declaration for Federal Employment.
(iv) Foreign National Relatives or Associates Statement. This is only required if foreign national relatives or associates were not disclosed on the security questionnaire form.
(v) Self-Reporting Requirements for All Contractor Personnel. This is an acknowledgement and acceptance statement that every contractor must sign.
(vi) Additional information as may be required based on the review of the security questionnaire form.

The contractor shall review all forms/documents to ensure each is complete, accurate and meets all DOJ requirements, including applicable residency and citizenship requirements. The contractor shall resolve any issues or discrepancies with the contractor employee, including resubmission of corrected forms or documentation. Completed forms/documents shall be submitted to the SPM (or designee, which may include the COR) within five (5) calendar days after being finalized.

(c) Adjudication and Pre-Employment Background Investigation Waivers

(1) Except as set forth in this section, background investigations must be conducted and favorably adjudicated for each contractor employee prior to commencing their work on this contract. Where programmatic needs do not permit the federal government to wait for completion of the entire background investigation, a pre-employment background investigation waiver for *public trust contractors* can be granted by the SPM, in consultation with the cognizant COR. Pre-employment waivers cannot be used to circumvent delays in clearing classified contractors through the DCSA, if access to classified information is required.

(2) As directed by the SPM, the contractor shall initiate pre-employment waivers for Public Trust Positions when necessary. This may entail performing credit history checks and submission of these checks as part of the security package, including satisfactory resolution of any issues prior to submission to the federal government. A waiver will be disapproved if it develops derogatory information that cannot be resolved in the contractor employee's favor. When a waiver has been disapproved, the CO, in consultation with the SPM and COR, will determine (i) whether the contractor employee will no longer be considered for work on a DOJ contract or (ii) whether to wait for the completion and favorable adjudication of the background investigation before the contractor employee commences work on a Department contract. The pre-employment background investigation waiver requirements include:

1. Verification of citizenship (copy of a birth certificate, naturalization certificate, or U.S. passport);
2. Verification of compliance with the *DOJ Residency Requirement* of this Clause;
3. Favorable review of the security questionnaire form;
4. Favorable FBI fingerprint results;
5. Favorable credit report;
6. Favorable review of the OF-306 form, Declaration for Federal Employment;
7. Verification of the initiation of the appropriate background investigation (for long-term personnel); and
8. Receipt of the signed DOJ *Self-Reporting Requirements for All Contractor Personnel* (see Section 6, below).

(3) The investigating agency (DCSA) will provide the SPM with the results of each proposed contractor employee's Public Trust investigation. Upon receipt of the investigation and any other pertinent documents from the investigating agency, the SPM will determine whether each proposed contractor employee should be granted employment security approval.

(4) The COR will notify the contractor of the results of Public Trust background investigations as they are completed and adjudicated, including any individual who is found ineligible for employment security approval. For any individual found ineligible for employment on a Department contract, the contractor shall propose a replacement and initiate the background investigation process consistent with this clause.

5. Identity Proofing and Badging

(a) Access to DOJ Information, federally-controlled IT systems, and/or unescorted access to federally-controlled facilities or space (regardless of whether the contractor employee will be issued a DOJ PIV card or building access badge) shall be made available after each respective contractor employee has (1) met the identity proofing requirements outlined below, and (2) completed all other security requirements stated elsewhere in this contract.

(b) (1) Public Trust contractor employees must appear in person at least once before a DOJ official or an official of a trusted contract company (i.e., has a facility security clearance) who is responsible for checking two forms of identification in original form prior to commencement of work by the contractor employee and PIV card or building access badge issuance (as applicable). Approval will be documented by the DOJ official or an official of a trusted contract company. (Acceptable documents are listed in Form I 9, Employment Eligibility Verification, and at least one document must be a valid state or federal government issued picture ID).

(c) [Reserved]

(d) All contractor employees requiring unescorted access to a DOJ controlled facility or space shall comply with the PIV card or building access badge requirements outlined below:

> (i) When any contractor employee enters a DOJ building for the first time, he/she shall allow one hour for security processing and the creation and issuance of a building access badge. PIV cards require additional processing time and will not likely be issued on the same day.
> (ii) Building access badges shall be subject to periodic review by the contractor employee's supervisor and checked against his/her personal identification. The contractor employees shall present themselves for the issuance of renewed badges when required by the government as scheduled by the COR or his/her designee. The contractor shall notify the COR when contractor employee badges are lost, and must immediately apply for reissuance of a replacement badge. The contractor shall pay for reissued building access badges at no cost to the government. It is the contractor employee's responsibility to return badges to the COR or his/her designee when a contractor employee is dismissed, terminated or assigned to duties not within the scope of this contract.

6. Employee Reporting Requirements

(a) All contractor employees must sign the DOJ *Self-Reporting Requirements for All Contractor Personnel* statement acknowledging and accepting the DOJ requirement that they immediately self-report certain information using the Department's iReport system. The COR or SPM will provide the Self-Reporting statement as well as a list of reportable information, which varies by position sensitivity designation, to the contractor employee before commencing work under the contract. If the contractor employee does not have access to the DOJ iReport System, the COR or SPM will provide a fillable form for the contractor employee to complete and submit.

(b) The COR and SPM will review the written report and documentation and make a determination regarding continued employment on a DOJ contract.

(c) DOJ reporting requirements are in addition to the DCSA reporting requirements and the contractor's internal reporting requirements.

7. Replacement Personnel

(a) The contractor shall make every effort to avoid costs to the government for security investigations for replacement of contractor employees, and in so doing shall ensure that otherwise satisfactorily performing and physically able contractor employees remain in contract performance for the duration of the contract. The contractor shall take all necessary steps to ensure that contractor personnel who are selected for assignment to this contract are professionally qualified and personally reliable, of reputable background and sound character, and able to meet all other requirements stipulated in the contract.

(b) The fact that the government performs security investigations shall not in any manner relieve the contractor of its responsibility to ensure that all contract personnel are reliable and of reputable background and sound character. Should a security investigation conducted by the government and/or a contractor's self-report or failure to self-report render ineligible a contractor employee, the contracting officer will determine whether the contractor has violated this clause. The contracting officer may direct the contractor, at its own expense, to remove and replace any contractor personnel who fails to comply with or violates applicable requirements of this contract. Such action may be taken at the government's direction without prejudice to its rights under any other provision of this contract, including termination for default, and the contractor may be held liable, at a minimum, for all reasonable and necessary costs incurred by the government to (i) provide coverage (performance) through assignment of individuals employed by the government or third parties in those cases where absence of contractor personnel would cause either a security threat or DOJ program disruption and (ii) conduct security investigations in excess of those which would otherwise be required.

(c) Nothing in this clause shall require the contractor to bear costs involved in the conduct of security investigations for replacement of a contractor employee who separates from the contractor of his/her own accord, is incapacitated, or is deceased.

(d) The contractor shall comply with the terms and conditions set forth under this clause and assumes all liability for failure to comply. The rights and remedies conferred upon the government by this clause are in addition to all and other rights and remedies pursuant to the contract and as established by law.

(End of Clause)

DOJ-08 Continuing Contract Performance During a Pandemic Influenza or other National Emergency (OCT 2007)

During a Pandemic or other emergency we understand that our contractor workforce will experience the same high levels of absenteeism as our federal employees. Although the Excusable Delays and Termination for Default clauses used in government contracts list epidemics and quarantine restrictions among the reasons to excuse delays in contract performance, we expect our contractors to make a reasonable effort to keep performance at an acceptable level during emergency periods.

The Office of Personnel Management (OPM) has provided guidance to federal managers and employees on the kinds of actions to be taken to ensure the continuity of operations during emergency periods. This guidance is also applicable to our contract workforce. Contractors are expected to have reasonable policies in place for continuing work performance, particularly those performing mission critical services, during a pandemic influenza or other emergency situation.
The types of actions a federal contractor should reasonably take to help ensure performance are:

- Encourage employees to get inoculations or follow other preventive measures as advised by the public health service.
- Contractors should cross-train workers as backup for all positions performing critical services. This is particularly important for work such as guard services where telework is not an option.
- Implement telework to the greatest extent possible in the workgroup so systems are in place to support successful remote work in an emergency.
- Communicate expectations to all employees regarding their roles and responsibilities in relation to remote work in the event of a pandemic health crisis or other emergency.
- Establish communication processes to notify employees of activation of this plan.
- Integrate pandemic health crisis response expectations into telework agreements.
- With the employee, assess requirements for working at home (supplies and equipment needed for an extended telework period). Security concerns should be considered in making equipment choices; agencies or contractors may wish to avoid use of employees' personal computers and provide them with PCs or laptops as appropriate.
- Determine how all employees who may telework will communicate with one another and with management to accomplish work.
- Practice telework regularly to ensure effectiveness.
- Make it clear that in emergency situations, employees must perform all duties assigned by management, even if they are outside usual or customary duties.
- Identify how time and attendance will be maintained.

It is the contractor's responsibility to advise the government contracting officer if they anticipate not being able to perform and to work with the Department to fill gaps as necessary. This means direct communication with the contracting officer or in his/her absence, another responsible person in the contracting office via telephone or email messages

acknowledging the contractor's notification. The incumbent contractor is responsible for assisting the Department in estimating the adverse impacts of nonperformance and to work diligently with the Department to develop a strategy for maintaining the continuity of operations.

The Department does reserve the right in such emergency situations to use federal employees. employees of other agencies, contract support from other existing contractors, or to enter into new contracts for critical support services. Any new contracting efforts would be acquired following the guidance in the Office of federal Procurement Policy issuance "Emergency Acquisitions", May, 2007 and Subpart 18.2. Emergency Acquisition Flexibilities, of the Federal Acquisition Regulations.

(End of Clause)

FAO-0015 Changes

(a) Unilateral changes (Change Orders) will be in accordance with the Changes clause 52.243-4 or Changes and Changed Conditions clause 52.243-5 whichever applies to this contract. Additionally, the parties may enter into bi-lateral supplemental agreements based on mutual agreement between the parties.

(b) In the case of either a unilateral change order or bi-lateral supplemental agreement, the Contractor shall submit to the Contracting Officer, through the Contracting Officer's Representative (COR), a written proposal for adjustment of the amount of increase or decrease. With the proposal, the Contractor shall submit an itemized breakdown in at least the following detail:

(1) Material quantities and unit cost
(2) Labor costs by material item
(3) Construction equipment cost
(4) Workmen's compensation and public liability insurance
(5) Overhead
(6) Profit or commission
(7) Employment taxes (FICA and FUTA)
(8) Performance and payment bonds increase

(c) For either unilateral change orders or bi-lateral supplemental agreements, the maximum allowable overhead, profit and commission percentages are contained below. The percentages for overhead, profit and commission shall be negotiated and may vary according to the nature, extent and complexity of the work involved, but in no case shall exceed the following:

(1) To the Contractor (Prime), on work performed by other than his own forces. The commission is 10% in the first $20,000, 7 1/2% on the next $30,000, 5% on the balance over $50,000.

(2) To the Contractor, and/or the Subcontractors for that portion of the work performed with their respective forces. The percentage is 10% overhead and 10% profit on the first $20,000, 7 1/2% overhead and 7 1/2% profit on the next $30,000, and 5% overhead and 5% profit on the balance over $50,000.

Not more than three (3) percentages, not to exceed the maximum percentage amounts shown above, will be allowed regardless of the number of Subcontractors (i.e., the mark up on work subcontracted by the Subcontractor will be limited to one overhead percentage and one profit percentage in addition to the prime Contractor's commission percentage). On proposals covering both increases and decreases in the amount of the contract, overhead, profit and commission will be allowed on the net increase only.

(d) When certified cost or pricing data are required under FAR 15.403-4 for proposals over **$2,000,000**, the cost or pricing data shall be submitted in accordance with FAR 15.408, Table 15-2. No itemized breakdown will be required for proposals amounting to less than $1,000.

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

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

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

(h) 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 therefor. 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.

(i) The Contractor shall submit with his proposal a request for time extension, if applicable.

(j) The COR shall review the proposal and check estimates in detail, utilizing unit prices where specified or agreed upon. If they are in agreement, the COR shall forward the proposal to the Contracting Officer. The Contracting Officer will forward copies to the Architect-Engineer (if applicable) and the Regional Project Manager for their review and recommendations. After their review, the Architect-Engineer and Project Manager will forward their comments to the Contracting Officer.

(k) If the Contracting Officer determines that an equitable adjustment is to be made, the contract shall be modified in writing utilizing the prescribed Standard Form 30 (Amendment of Solicitation/Modification of Contract) (SF-30). After the SF-30 has been signed by the Contractor and executed by the Contracting Officer, distribution shall be made as follows:

(1) Original: Contract file
(2) Copy to: Contractor
Regional Project Manager
Contracting Officer’s Representative (COR)
Architect-Engineer Firm (if applicable)
Accounting Supervisor

FAO-0016 Equitable Adjustments: Waiver and Release of Claims

(a) When the Contractor, after receipt of notification of a change made pursuant to the clause of this contract entitled "Changes" or after affirmation of constructive change thereunder, submits any claim for equitable adjustment under this clause, such claim shall include all types of adjustments in the total amounts to which that clause entitles the Contractor, including but not limited to adjustments arising out of delays or disruptions or both caused by such change. Except as the parties may otherwise expressly agree, the Contractor shall be deemed to have waived (i) any adjustments to which it otherwise might be entitled under the aforesaid clause where such claim fails to request such adjustment, and (ii) any increase in the amount of equitable adjustments additional to those requested in its claim.

(b) Further, the Contractor agrees that, if required by the Contracting Officer, it will execute a release, in form and substance satisfactory to the Contracting Officer, as part of the supplemental agreement setting forth the aforesaid adjustment, and that such release shall discharge the Government, its officers, agents, and employees, from any further claims, including but not limited, to further claims arising out of delays or disruptions or both caused by the aforesaid change.

Section 5 - Attachments

Identifier	Title	Number of Pages
2	Approved BUT_26Z1AS5_SOW.pdf	

Section 6 - Solicitation Provisions

Provisions By Reference

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): www.acquisition.gov		
Provision	Title	Fill-ins (if applicable)
52.204-7 (DEV)	System for Award Management-Registration (Nov 2024) (DEVIATION NOV 2025)	
52.212-1 (DEV)	Instructions to Offerors-Commercial Products and Commercial Services (Sep 2023) (DEVIATION NOV 2025)	
2852.233-70	Protests Filed Directly with the Department of Justice (NOV 2020)	
52.222-5 (DEV)	Construction Wage Rate Requirements - Secondary Site of the Work (May 2014) (DEVIATION DEC 2025)	

Provisions By Full Text

52.228-1 Bid Guarantee (Sept 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, 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)

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)

52.212-2 (DEV) Evaluation-Commercial Products and Commercial Services (Nov 2021) (DEVIATION NOV 2025)

Evaluation—Commercial Products and Commercial Services (Nov 2025)

(a) Evaluation factors. The Government will award a contract resulting from this solicitation to the responsible Offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors will be used to evaluate offers:price and past performance

[Insert evaluation factors in the relative order of importance. For requests for proposals, state: Evaluation factors other than price when combined are [significantly more important than price/approximately equal to price/significantly less important] than price. For invitations for bids, list only price and price-related factors.]

(b) *Options (if applicable)*. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. The evaluation of options does not obligate the Government to exercise the option(s).

c) *Notice of award*. A written notice of award or acceptance of an offer furnished to the successful Offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of provision)

Section 7 - Representations and Certifications

Provisions By Reference

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): www.acquisition.gov		
Provision	Title	Fill-ins (if applicable)
52.203-11	Certification And Disclosure Regarding Payments to Influence Certain Federal Transactions (Sept 2024)	
52.203-18	Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements--Representation (Jan 2017)	
52.225-2	Buy American Certificate (Oct 2022)	

Provisions By Full Text

FAO-0020 List of References and Bank Information

Bidders/Offerors may be required by the Contracting Officer to submit the following information after bid opening or date for receipt of offers which will be utilized in determining contractor responsibility.

1. Provide a list of all active and completed contracts performed by your firm the past two (2) years. The information shall include:

   a. Name of Company/Government Agency

   b. Telephone Number

   c. Name of Contact Person

d. Contact Person E-Mail Address

e. Description of Work Performed

f. Amount of Contract

g. Contract Status: Active or Complete

h. List Month/Year of Completion (if applicable)

2. Provide the following bank information:

a. Name of Bank

b. Complete Address

c. Telephone Number

d. Contact Person

e. Contact Person E-Mail Address

FAO-0021 Business Management Questionnaire

(a) Provide the work distribution, by percentage, among commercial contracts and Government contracts (including subcontracts under Government contracts).

COMMERCIAL: _____ percent GOVERNMENT: _____ percent

(b) List the last three contracts awarded to your firm which are of a related nature, indicating for each the following:

(1)(a) Customer and Address _____

_____

_____

(b) Contract Number _____

(c) Person to Contact _____

(d) Type of Work _____

(e) Amount of Contact $ _____

(f) Contract Status [____] Active [____] Complete

(2)(a) Customer and Address _____

_____

_____

(b) Contract Number _____

(c) Person to Contact _____

(d) Type of Work _____

(e) Amount of Contact $ _____

(f) Contract Status [____] Active [____] Complete

(3)(a) Customer and Address _____

_____

_____

(b) Contract Number _____

(c) Person to Contact _____

(d) Type of Work _____

(e) Amount of Contact $ _____

(f) Contract Status [____] Active [____] Complete

(4) Bank Reference:

(a) Name of Bank_____

(b) Address_____

_____

(Phone)_____

(5) Total estimated amount of work under this contract that your firm will complete (excluding subcontractors):

_____ percent

FAO-0022 List of References and Bank Information

Bidders/Offerors are required by the Contracting Officer to submit past performance information with their solicitation. All information is required to be submitted directly from the contractor reference to XXXXXXXXXX@bop.gov “Instructions to Bidders” included with this solicitation has an attached Past Performance Questionnaire and Banking Reference Questionnaire that are required. Provide at least 5 references and one bank reference. Both Questionnaires should be submitted prior to the bid closing date to the email address stated above. You must have current work or completed work with the firms you forward the questionnaires to in the last 24 months. The companies/Government agencies you forward the reference documents should send their response to _____@bop.gov prior to closure of the solicitation bid opening. (End of Provision)