Attachment I – Terms and Conditions
Mercury Analyzer
1232SA26Q0778

Statement of Requirement

The USDA ARS NEA SASL has a requirement for a mercury analyzer. See Attachment II - Specifications for a complete list of requirements.

Schedule of Items
See CLIN schedule on SF-1449.

Requirement is subject to Buy American

FAR Clause 52.225-1 Buy American – Supplies (Sep 205) and FAR Provision in full text 52.225-2 Buy American Certificate (Sep 2025) is incorporated into this solicitation.

Technical Data

Technical data and supporting documentation associated with this solicitation are available through the following sources:

1. Solicitation Attachments
   The following documents are included as attachments to this solicitation and can be accessed via the "Attachments/Links" section of the posting.
   - Attachment I – Terms and Conditions
   - Attachment II – Specifications
   - Attachment III – Contractor Request for Information
   - Attachment IV – Past Performance Questionnaire

Federal Acquisition Regulation (FAR) and United States Department of Agriculture Acquisition Regulation (AGAR) Clauses and Provisions
The clauses and provisions contained herein are applicable to any order awarded as a result of this solicitation. The terms and conditions set forth herein supersede all other terms and conditions. Acceptance of the order in accordance with (IAW) FAR 12.201-1(b)(2) constitutes acceptance of all terms and conditions contained herein.

As part of the Revolutionary FAR Overhaul (RFO), system updates may lag policy updates. The System for Award Management (SAM) may continue to require entities to complete representations based on provisions that are not included in this solicitation. Contracting officers will rely on representations from offers based on provisions in the solicitation. Entities are not required to, nor are they able to, update their entity registration to remove these representations in SAM.

52.252-2 Clauses Incorporated by Reference Feb 1998
This solicitation 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 the clause may be accessed electronically at Internet address https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-52

52.212-4 Terms and Conditions—Commercial Products and Commercial Services (Nov 2025)
☐ Alternate I (Nov 2025) of 52.212-4
52.203-17 Contractor Employee Whistleblower Rights (Nov 2023)
52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)
52.209-10 Prohibition on Contracting with Inverted Domestic Corporations (Sep 2025)
52.222-50 Combating Trafficking in Persons (Nov 2025)
☐ Alternate I (Nov 2025) of 52.222-50
52.222-90 Addressing DEI Discrimination by Federal Contractors (Apr 2026)
52.226-8 Encouraging Contractor Policies to Ban Text Messaging While Driving (May 2024)
52.232-39 Unenforceability of Unauthorized Obligations (Jun 2013)
52.232-40 Providing Accelerated Payments to Small Business Subcontractors (Mar 2023)
52.233-3 Protest After Award (Sep 2025)
52.233-4 Applicable Law for Breach of Contract Claim (Sep 2025)
52.240-91 Security Prohibitions and Exclusions (Nov 2025)
☐ Alternate I (Nov 2025) of 52.240-91
52.244-6 Subcontracts for Commercial Products and Commercial Services (Nov 2025)

<u>The following clauses are applicable if checked:</u>

☒ 52.204-13 System for Award Management—Maintenance (Nov 2025)
☒ 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Sep 2025)
☒ 52.219-6 Notice of Total Small Business Aside (Nov 2025)
☐ Alternate I (Mar 2020).
☒ 52.219-28 Postaward Small Business Program Representation (Sep 2025)
☒ 52.222-3 Convict Labor (June 2003)
☒ 52.222-19 Child Labor—Cooperation with Authorities and Remedies (Nov 2025)
☒ 52.222-36 Equal Opportunity for Workers with Disabilities (Nov 2025)
☐ Alternate I (Jul 2014) of 52.222-36
☒ 52.225-1 Buy American-Supplies (Nov 2025)
☐ Alternate I (Oct 2022) of 52.225-1
☒ 52.232-33 Payment by Electronic Funds Transfer— System for Award Management (Oct 2018)
☒ 52.240-93 Basic Safeguarding of Covered Contractor Information Systems (No 2025)

<u>AGAR Clauses</u>

452.203-71 Anti-Discrimination and Diversity, Equity, and Inclusion (DEI) Compliance (May 2026)

(a) By entering into this contract, the contractor certifies that:

(1) It is compliant with all applicable Federal anti-discrimination laws and the Equal Protection principles of the U.S. Constitution, and it will remain compliant for the duration of the contract.

(2) Neither it nor any subcontractor or teaming partner operates or funds any program, policy, or initiative that promotes DEI in a manner that violates any applicable Federal anti-discrimination laws, including but not limited to Title VI and VII of the Civil Rights Act of 1964, or the Equal Protection principles of the U.S. Constitution, and the contractor and any subcontractor or teaming partner will not do so for the duration of the contract.

(b) If the contractor participates in, facilitates, or funds programs that implicate Title VI of the Civil Rights Act of 1964 or Title IX of the Education Amendments of 1972, as amended, including but not limited to grants to or for schools, colleges, universities, 4-H programs, non-governmental organization (NGO) programs, sports programs, and education-related grants to prisons or other

detention facilities, the contractor certifies that it will remain compliant with those laws, including the requirements set forth in Executive Order 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, and Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity.

(c) The contractor affirms that the above requirements are conditions of payment that go to the essence of the contract and are therefore material terms of the contract. Payments under the contract are predicated on compliance with the above requirements, and therefore the contractor is not eligible for funding under the contract or to retain any funding under the contract absent compliance with the above requirements.

(d) This certification reflects a change in the Government's position regarding the materiality of the foregoing requirements and therefore any prior payment of similar claims does not reflect the materiality of the foregoing requirements to this contract.

(e) Submission of a knowing false statement relating to contractor's compliance with the above requirements and/or eligibility for the contract may subject the contractor to liability under the False Claims Act, 31 U.S.C. § 3729, and/or criminal liability, including under 18 U.S.C. §§ 287 and 1001.

(f) The contractor must include the provisions of this clause in all subcontract solicitations.

(g) Failure on the part of the contractor or its subcontractors to comply with the terms of this clause may be grounds for the Contracting Officer to terminate this contract for default.

(End of Clause)

AGAR 452.203-72 Unenforceable Supplier Terms (MAY 2026)

(a) Definitions.

Supplier terms mean provisions customarily drafted by vendors of supplies or services and intended to create a binding legal obligation on the end user. The term applies:

1. Regardless of the format or style of the document. For example, supplier terms may appear in standard terms of sale or lease, Terms of Service (TOS), End User License Agreement (EULA), or another similar legal instrument or agreement, and may be presented as part of a proposal or quotation responding to a solicitation for a contract or order or otherwise become effective after the contract date.

2. Regardless of the media or delivery mechanism used. For example, supplier terms may be presented as one or more paper documents or may appear on a computer or other electronic device screen during a purchase, software installation, other product delivery, registration for a service, or another transaction.

(b) Applicability. When any supply or service acquired under this contract is subject to supplier terms, the supplier terms are deemed part of the contract only to the extent they are consistent with this clause. Supplier terms that conflict with any part of this clause, the contract, or Federal law are void and will not be considered incorporated into a contract, even if they are physically present in a contract documentation or systems. In the event of any inconsistency between supplier terms and this contract, this clause and the terms of the Government contract must govern and supersede any supplier terms in all cases.

(c) Authorization Required. Notwithstanding any other provision, no supplier terms must be binding on the Government unless the term is expressly authorized on the USDA Supplier Terms Authorization Form signed by the Contracting Officer, and the completed Authorization Form has been incorporated into the contract.

(d) Unenforceable Terms. Any supplier terms that impose obligations or restrictions inconsistent with applicable Federal law are unenforceable against the Government and deemed stricken from the agreement. This includes, but is not limited to, any clause that:

(1) Requires the Government to pay future fees, penalties, interest, legal costs, early-termination fees, cancellation fees, minimum purchase commitments, true-up payments, seat-count minimums, usage minimums, continued-use charges, or any other financial obligation not expressly authorized by the contract.

(2) Requires the Government to indemnify the contractor or any other entity.

(3) Restricts the Government's ability to obtain similar supplies or services from another source.

(4) Imposes any penalty, financial or otherwise, based on the Government's decision not to exercise an option.

(5) Subjects the United States Government to the laws of any U.S. state, territory, district, municipality, or foreign nation, except where Federal law expressly permits such application.

(6) Requires dispute resolution in a forum or venue other than one prescribed by applicable Federal law.

(7) Establishes a period of limitations for bringing an action that differs from that provided by applicable Federal law.

(8) Grants the contractor rights to use, mine, access, aggregate, analyze, or otherwise exploit Government data, usage data, or metadata.

(9) Deems the Government to have accepted initial or revised terms based on silence, continued performance, or failure to object.

(10) Grants the supplier the right to audit Government facilities, systems, records, or use of the product or service, except as expressly authorized by the contract and applicable Federal law.

(11) Requires the Government to accept supplier security requirements, network access requirements, monitoring, penetration testing, or other technical or security measures.

(12) Permits the supplier to suspend, degrade, or terminate access to products or services based on alleged non-payment, alleged breach, automated security triggers.

(13) Limits the Government's right to use, install, access, test, evaluate, or transfer the licensed product or service in any manner consistent with the contract and Federal law.

(14) Requires the Government to store, process, maintain, or transmit data in a particular geographic location, or permits the supplier to transfer Government data outside the United States, except as expressly authorized by applicable Federal law.

(15) Authorizes the supplier to use the Government's name, seal, trademark, logo, or any reference to the Government as an end user or customer for marketing, publicity, promotional activities, press releases, or similar purposes.

(16) Incorporates by reference, or requires the Government to accept, terms or conditions imposed by any third party, subcontractor, or upstream service provider, unless such terms are expressly incorporated into the contract by bilateral modification.

(17) Limits, conditions, or negates the contractor's performance obligations, service levels, or remedies through a supplier-provided service level agreement (SLA).

(18) Uses Government data, usage data, metadata, prompts, content, or interactions to train, fine-tune, improve, or derive any artificial intelligence, machine learning, or automated decision-making model.

(19) Subjects the Government to automated decision-making, automated risk scoring, automated content moderation, or any algorithmic process that may affect access, performance, or rights under the contract.

(20) Utilizes artificial intelligence or algorithmic tools that produce decisions, recommendations, or outputs affecting contract performance without providing transparency, explainability, auditability, and bias-mitigation consistent with applicable Federal law and policy.

(21) Profiles, tracks, or analyzes Government user behavior, preferences, communications, or interactions for personalization, marketing, or algorithmic optimization purposes.

(e) Non-binding Actions. Neither the Government nor any Government authorized end user is deemed to have consented to any term, condition, or clause by virtue of its inclusion in the supplier agreement or through the use of clickwrap, browsewrap, "I agree" mechanisms, or similar means. Execution of such mechanisms does not bind the Government or its authorized end users to any unenforceable terms.

(f) End user. The supplier agreement must bind the ordering activity as the end user to the extent it does not conflict with the terms of this clause, but it must not bind or impose personal liability on any Government employee or any person acting on behalf of the Government in their personal capacity.

(g) Law and disputes. The supplier agreement is governed by Federal law.

(h) Statutory exception. This clause does not apply to indemnification or any other payment by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(i) Continued performance. The supplier or licensor must not unilaterally revoke, terminate, or suspend any rights granted to the Government except as allowed by the contract. If the supplier or licensor believes the ordering activity to be in breach of the supplier agreement, it must pursue its rights under the Contract Disputes Act or other applicable Federal statute while proceeding diligently with performance, pending final resolution of any dispute in accordance with the Disputes Clause at FAR 52.212-4(d) or FAR 52.233-1, as applicable.

(j) Arbitration. Binding arbitration must not be used unless specifically authorized by agency guidance.

(k) Equitable or injunctive relief. Equitable or injunctive relief, including the award of attorney fees, costs, or interest, may be awarded against the United States Government only when explicitly provided by statute (e.g., the Prompt Payment Act or the Equal Access to Justice Act).

(l) Revisions to supplier agreements. Any revisions to the supplier agreement must be incorporated into the contract using a bilateral modification. Unilateral revisions are not binding on the Government.

(m) No automatic renewals. If any license or service tied to periodic payment is provided under the supplier agreement (e.g., annual software maintenance or annual lease term), such license or service must not renew automatically upon expiration of its current term without prior express written consent from an authorized Government representative.

(n) Indemnification. Any clause of the supplier agreement requiring the supplier or licensor to defend or indemnify the end user is 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.

(o) Taxes or surcharges. Any taxes or surcharges which the supplier or licensor seeks to pass along to the Government as end user will be governed by the terms of the associated Government contract or order and must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed otherwise.

(p) Non-assignment. The supplier agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the Government's prior approval, except as expressly permitted by FAR 52.212-4(b) or FAR 52.232-23, as applicable.

(q) Confidential information. If the supplier agreement includes a confidentiality clause, such clause is amended to state that neither the agreement nor the contract price list, as applicable, must be deemed "confidential information." Issues regarding release of "unit pricing" will be resolved consistent with the Freedom of Information Act. Notwithstanding anything in the supplier agreement to the contrary, 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 the supplier agreement.

(r) Conflict with Federal law. If any other language, provision, or clause of the supplier agreement conflicts or is inconsistent with Federal law or the terms and conditions of this contract, such language, provisions, or clauses will be considered null and void and will not be binding on the United States Government.

(End of Clause)

452.204–70 Modification for Contract Closeout (Apr 2026)

(a) If unliquidated funds in the amount of $1000 or less remain on the contract, the Contracting Officer (Contracting Officer) may issue a unilateral modification for deobligation. The contractor will receive a copy of the modification but is not required to provide a signature. The Contracting Officer will immediately proceed with contract closeout upon completion of the period of performance, receipt and acceptance of supplies or services, and final payment.

(b) For commercial contracts not exceeding the simplified acquisition procedure threshold under FAR 12.001(c), if more than $1,000 in unliquidated funds remain at closeout, the Contracting Officer will issue a bilateral deobligation modification. Only the modification requires the contractor's signature, though a Release of Claims may be requested. If the required documents are not returned within 60 days, the Contracting Officer will issue a unilateral modification and proceed with closeout once performance is complete, acceptance is confirmed, and final payment is made.

(c) For all other non-commercial or non–cost-reimbursement contracts, if more than $1,000 in unliquidated funds remain at closeout, the Contracting Officer will issue a bilateral deobligation modification and a Release of Claims, both requiring contractor signature. If these documents are not returned within 120 days, the Contracting Officer will issue a unilateral modification u and proceed with closeout upon completion of performance, acceptance, and final payment.

(End of Clause)

Attachment I – Terms and Conditions
Mercury Analyzer
1232SA26Q0778

Solicitation Information

Award Type

It is anticipated that a Firm-Fixed price purchase order will be awarded as a result of this synopsis/solicitation.

The Government intends to make one award from this solicitation. Therefore, to be considered responsive, contractors must submit pricing for all items.

Evaluation and Basis for Award

The provision at FAR 52.212-2, Evaluation—Commercial Products and Commercial Services is not applicable to this solicitation. In lieu of this provision, quotes will be evaluated in accordance with FAR 12.203 based on the criteria listed below. Award will be made to the offeror representing the best value to the Government.

Price:

Any quantity price discounts and discounts for prompt payment should be included in this section. The offeror shall provide pricing as requested on the SF-1449. Any quantity price discounts and discounts for prompt payment should be included in this section. The offeror's quotation will be evaluated in accordance with FAR 12.204, to determine if it is fair and reasonable.

Technical Acceptability:

The United States Department of Agriculture (USDA) has a requirement for the following items on a brand name or equal basis.

Item	Part Number	Nomenclature	Manufacturer
1	DMA8237	Direct Mercury Analyzer evo Dual Cell Double Beam Analyzer	Milestone Inc

- The salient characteristics of the Mercury Analyzer are
  - Must be able to analyze a variety of samples, including soils, water, and plant tissues.
  - Must have a mercury detection limit of 0.001 ng to be able to process samples.
  - Must be a single fully integrated platform.

Offeror's providing "or equal" items shall include in their quotation descriptive literature such as illustrations, drawings, or a clear reference, such as a web site to information readily available to the Contracting Officer showing that the items being quoted meets all salient characteristics. Merely stating that the items meet is not acceptable. The Contracting Officer is not responsible for locating or obtaining any information not identified in the offer.

The Technical capability will be evaluated to determine an overall rating of "acceptable" or "unacceptable". To be considered technically acceptable, the quoted product must:

1. **Meet or exceed all salient characteristics** of the brand name product as specified in the solicitation.
2. Be clearly identified by **brand name, make, and model number**, or identified as an "equal" product.
3. Include **sufficient descriptive literature or documentation** (e.g., product specifications, datasheets, or brochures) to demonstrate how the proposed product meets or exceeds the required salient characteristics.
4. Be available for delivery within the timeframe specified in the solicitation.

Failure to provide adequate documentation or to meet the required salient characteristics will result in a determination of **technical unacceptability**, and the quotation will not be considered for award.

Past Performance:
The Government may utilize any references provided by the Contractor, along with information available from past contracts/orders with the USDA and any information found using sources such as Federal Government sources or the Contractor Performance Assessment Reporting System (CPARS) to determine if the Contractor has acceptable or neutral Past Performance. Attachment IV - PPQ are due at RFQ close. Past Performance will be evaluated using the following rating system:

- Acceptable: The contractor shows a demonstrated ability to meet contract requirements in prior or current contracts, including quality of work, timeliness, cost control, business relations, and adherence to contract terms.

- Neutral: Offeror does not have a past performance record.
-
- Unacceptable: The contractor has a documented history of failing to meet contract requirements, including poor quality, missed deadlines, cost overruns, lack of responsiveness, or unethical behavior.

Evaluation Method:
The Government will evaluate quotations based on the lowest price technically acceptable criteria. Only the lowest priced offer will be evaluated for Technical Acceptability. Should the lowest priced offer not receive an acceptable technical or past performance rating, the process will continue in order of lowest priced offer until the lowest price, technically acceptable offer with acceptable or neutral past performance is identified.

Delivery Information

F.o.b. destination, is requested as the F.O.B. point for all deliverables.

All offers will be considered F.O.B. Destination unless F.O.B. origin is specified AND estimated shipping costs are included.

The USDA requires delivery of all items by 120 days after receipt of purchase order. Early deliveries will be accepted.

Shipping Instructions:
Items shall be shipped to the following address:
USDA ARS NEA SASL
10300 Baltimore Avenue
Bldg 0001 Room 124
Beltsville MD 20705

Qualification Requirements

Offerors, or the product or service, are not required to meet a qualification requirement to be eligible for award.

52.252-1 Solicitation Provisions Incorporated by Reference Feb 1998
This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es): https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-52

52.212-1 Instructions to Offerors - Commercial Products and Commercial Services (Nov 2025)

FAR 52.212-1 is amended as follows:

Period for acceptance of offers.

The Offeror agrees to hold the prices in its offer firm for **90 calendar days** from the date specified for receipt of offers.

Questions

Questions shall be submitted on Attachment III – Contractor Request for Information via email to theodore.blume@usda.gov and are due no later than June 30, 2026, at 1:00 PM Eastern Time. This will ensure enough time to respond before the solicitation period ends. Please include the solicitation name and number as the subject line of the email.

52.203-18 Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation (Jan 2017)

52.209-2 Prohibition on Contracting with Inverted Domestic Corporations - Representation (Sep 2025)
52.209-11 Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law (Sep 2025)
52.240-90 Security Prohibitions and Exclusions Representations and Certifications (Nov 2025)

The following provisions are applicable if checked:

☒ 52.204-7 System for Award Management—Registration (Nov 2025)
☐ Alternate I (Nov 2025) to 52.204-7
☒ 52.222-18 Certification Regarding Knowledge of Child Labor for Listed End Products (Feb 2021

FAR Provisions in Full Text

52.216-1 Type of Contract (Sep 2025)

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

(End of provision)

52.219-1 Small Business Program Representations (Sep 2025)

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

Economically disadvantaged women-owned small business (EDWOSB) concern means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

HUBZone small business concern means a small business concern that meets the requirements described in 13 CFR 126.200, is certified by the Small Business Administration (SBA) and designated by SBA as a HUBZone small business concern in the Small Business Search (SBS) (13 CFR 126.103).

Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program means an SDVOSB concern that is designated in the System for Award Management (SAM) as certified by the Small Business Administration (SBA) in accordance with 13 CFR 128.300.

Small business concern—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (b) of this provision.
(2) *Affiliates*, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

Small disadvantaged business concern means a small business concern that-
(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by one or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States, and
(2) The management and daily business operations of which are controlled (as defined at 13 CFR 124.106) by individuals who meet the criteria in paragraph (1) of this definition.

Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with 13 CFR part 127) means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300.

(b) (1) The North American Industry Classification System (NAICS) code for this acquisition is 334516.
(2) The small business size standard is 1,000 employees.
(3) The small business size standard for a concern that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce (*i.e.*, nonmanufacturer), is 500 employees, or 150 employees for information technology value-added resellers under NAICS code 541519, if the acquisition—

(i) Is set aside for small business and has a value above the simplified acquisition threshold;
(ii) Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or
(iii) Is an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(c) *Representations.* (1) The offeror represents as part of its offer that—
(i) it □ is, □ is not a small business concern; or
(ii) It □ is, □ is not a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:* __.]
(2) [*Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents that it □ is, □ is not a women-owned small disadvantage business concern.

(3) *Women-owned small business (WOSB) joint venture eligible under the WOSB Program.* The offeror represents as part of its offer that it □ is, □ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:* __.]
(4) *Economically disadvantaged women-owned small business (EDWOSB) joint venture.* The offeror represents as part of its offer that it □ is, □ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:* __.]
(5) *SDVOSB joint venture eligible under the SDVOSB Program*. [*Complete only if the offeror is certified as a SDVOSB concern*]. The offeror represents as part of its offer that it □ is, □ is not a SDVOSB joint venture eligible under the SDVOSB Program that complies with the requirements of 13 CFR 128.402. [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:*__.]
(6) *HUBZone joint venture eligible under the HUBZone Program.* [*Complete only if the offeror is a HUBZone small business concern.*] The offeror represents, as part of its offer, that it □ is, □ is not a HUBZone joint venture that complies with the requirements of 13 CFR 126.616(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:* __.] Each HUBZone small business concern participating in the HUBZone joint venture must be certified as a HUBZone concern.

(d) *Notice.* Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a business concern that is small, HUBZone small, small disadvantaged, service-disabled veteran-owned small, economically disadvantaged women-owned small, or women-owned small eligible under the WOSB Program in order to obtain a contract to be awarded under the preference programs established pursuant to section 8, 9, 15, 31, and 36 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, will be—

(1) Punished by imposition of fine, imprisonment, or both;
(2) Subject to administrative remedies, including suspension and debarment; and
(3) Ineligible for participation in programs conducted under the authority of the Act.

(End of provision)

52.225-2 Buy American Certificate (Oct 2022)

(a)

(1) The Offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product and that each domestic end product listed in paragraph (c) of this provision contains a critical component.
(2) The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select "no".

(3) The Offeror shall separately list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).
(4) The terms "commercially available off-the-shelf (COTS) item," "critical component," "domestic end product," "end product," and "foreign end product" are defined in the clause of this solicitation entitled "Buy American-Supplies."

(b) Foreign End Products:

Line-Item No.	Country of Origin	Exceeds 55% domestic content (Yes/No)

(b)[*List as necessary*]

(c) Domestic end products containing a critical component:
Line Item No. ___
[*List as necessary*]

(d) The Government will evaluate offers in accordance with the policies and procedures of part 25 of the Federal Acquisition Regulation.

(End of provision)

<u>AGAR Provisions</u>

452.203-70 Anti-Discrimination and Diversity, Equity, and Inclusion (DEI) Certification (Dec 2025)

(a) By submission of its offer, the offeror certifies that:

(1) It is compliant with all applicable Federal anti-discrimination laws and the Equal Protection principles of the U.S. Constitution.
(2) Neither it nor any proposed subcontractor or teaming partner operates or funds any program, policy, or initiative that promotes DEI in a manner that violates any applicable Federal anti-discrimination laws, including but not limited to Title VI and VII of the Civil Rights Act of 1964, or the Equal Protection principles of the U.S. Constitution.

(b) If the offeror participates in, facilitates, or funds programs that implicate Title VI of the Civil Rights Act of 1964 or Title IX of the Education Amendments of 1972, as amended, including but not limited to grants to or for schools, colleges, universities, 4-H programs, non-governmental organization (NGO) programs, sports programs, and education-related grants to prisons or other detention facilities, by submission of its offer, the offeror certifies that it is compliant with those laws, including the requirements set forth in Executive Order 14168, Defending Women from

Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, and Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity.

(c) The offeror affirms that the above requirements are conditions of payment that go to the essence of the contract and are therefore material terms of the contract. Payments under the contract are predicated on compliance with the above requirements, and therefore the offeror will not be eligible for funding under the contract or to retain any funding under the contract absent compliance with the above requirements.

(d) This certification reflects a change in the Government's position regarding the materiality of the foregoing requirements and therefore any prior payment of similar claims does not reflect the materiality of the foregoing requirements to this contract.

(e) Submission of a knowing false statement relating to offeror's compliance with the above requirements and/or eligibility for the contract may subject the offeror to liability under the False Claims Act, 31 U.S.C. § 3729, and/or criminal liability, including under 18 U.S.C. §§ 287 and 1001.

(f) Failure on the part of the offeror or its subcontractors to comply with the terms of this clause may be grounds for the Contracting Officer to terminate the contract for default.

(End of Provision)

452.209-70 Past Performance with Regard to Offeror's Present Responsibility – Commodities (May 2026)

(a) Bidders are cautioned NOT to bid or provide offers for quantities in excess of what they can reasonably expect to deliver timely in accordance with the contract.

1. The offeror must certify to timely performance on current contracts and subcontracts in the attribute questions of the IFB/solicitation. The offeror must notify the Contracting Officer of late deliveries prior to submission of bids. The Contracting Officer will determine if late performance is beyond the control or negligence of the offeror prior to the bid/solicitation closing date. A false certification may result in rejection of the offer, suspension and debarment by USDA, termination of the contract, liability for damages under the provisions of this Master Solicitation, other administrative actions, or criminal prosecution.
2. The Contracting Officer may deem the offeror non-responsible and ineligible to participate in an IFB/solicitation if the offeror or any of their affiliates or subcontractors is delivering late and the late deliveries are not due to causes beyond the offeror's control or negligence.
3. Offerors with deficient past performance may be put on a probationary period**,** limiting the quantity awarded on a solicitation.
4. Past performance will be considered during the Contracting Officer's responsibility determination using the contractor's performance for the last three (3) years prior to bid opening of the IFB/solicitation close.

(End of provision)

452.211-70 Brand Name or Equal (May 2026)

(a) If an item in this solicitation is identified as "brand name or equal," the purchase description reflects the characteristics and level of quality that will satisfy the Government's needs. The salient physical, functional, or performance characteristics that "equal" products must meet are specified in the solicitation.

(b) To be considered for award, offers of "equal" products, including "equal" products of the brand name manufacturer, must-

(1) Meet the salient physical, functional, or performance characteristics specified in this solicitation;

(2) Clearly identify the item by-

i. Brand name, if any; and

ii. Make or model number;

(3) Include descriptive literature such as illustrations, drawings, or a clear reference to previously furnished descriptive data or information available to the Contracting Officer; and

(4) Clearly describe any modifications the offeror plans to make to a product to make it conform to the solicitation requirements. Mark any descriptive material to clearly show the modifications.

(c) The Contracting Officer will evaluate "equal" products on the basis of information furnished by the offeror or identified in the offer and reasonably available to the Contracting Officer. The Contracting Officer is not responsible for locating or obtaining any information not identified in the offer.

(d) Unless the offeror clearly indicates in its offer that the product being offered is an "equal" product, the offeror must provide the brand name product referenced in the solicitation.

(End of provision)

NOTICE FOR FILING AGENCY PROTESTS
United States Department of Agriculture (USDA) Protest Procedures

The United States Department of Agriculture (USDA) is committed to fair, transparent, and efficient acquisitions. Interested parties with concerns about this solicitation are encouraged to seek resolution through the following USDA procedures.

Tier 1: Contracting Officer Concern Resolution

Submission: Interested parties with concerns about either the solicitation or subsequent award should first submit their concern directly to the Contracting Officer, providing sufficient detail to allow the Contracting Officer to understand and assess the issue.

Process: The Contracting Officer will review the concern, seek clarification as needed, and engage with the interested party to attempt prompt resolution.

Review Timeline: The Contracting Officer will make every effort to provide a response or resolution within 10 business days of receiving the concern.

Effect on Award or Performance: Tier 1 engagement is not considered an official notification of filing an agency protest and does not pause solicitation deadlines, delay award decisions, or suspend contract performance.

Next Steps: If the matter cannot be resolved at Tier 1, the interested party may file a written agency protest under Tier 2.
USDA encourages all parties to seek resolution with the Contracting Officer before filing an agency protest.

Tier 2: Agency Protest
If concerns cannot be resolved at Tier 1, an interested party may file a written agency protest with either the Contracting Officer or the USDA Independent Review Authority. The decision by the USDA Independent Review Authority is an alternative to a decision by the Contracting Officer. The USDA Independent Review Authority will not consider an appeal of the Contracting Officer's decision on an agency protest.
The protest must state whether the protester elects review by the Contracting Officer, by the UDSA Independent Review Authority. If no election is stated, the Contracting Officer will decide the protest.

Required Information: Protests shall include the information set forth in FAR 33.104-4 (a)(3). Failure to submit the required information may result in a delay or dismissal of the protest.

Submission: Agency protests should be submitted electronically to SPE.inquiry@usda.gov and the Contracting Officer.

Timeliness: Protests must be filed within the timeframes specified in FAR 33.104.

Effect on Award or Performance: Contract awards or performance will be suspended during the protest period unless justified in writing for urgent and compelling reasons or determined to be in the best interest of the Government.

Review Timeline: USDA strives to resolve agency-level protests within 35 business days of receipt.

Election of Forum: By filing a protest with USDA, the protesters agree not to file a protest on the same matter with the Government Accountability Office (GAO) or any other external forum while the agency protest is pending. If such a protest is filed externally, the USDA agency protest will be dismissed.

Questions: Questions regarding this notice or protest procedures should be directed to the Contracting Officer identified in this solicitation.