SOLICITATION, OFFER, AND AWARD (Construction, Alteration, or Repair)	1. SOLICITATION NO.	2. TYPE OF SOLICITATION	3. DATE ISSUED	PAGE	OF PAGES
	33330226RF0010008	☐ SEALED BID (IFB) ☒ NEGOTIATED (RFP)	04/21/2026	1	108

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

4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO.	6. PROJECT NO.

7. ISSUED BY CODE OCON

SMITHSONIAN INSTITUTION
MRC 1200
PO Box 37012
Washington DC 20013-7012

8. ADDRESS OFFER TO

9. FOR INFORMATION CALL:	a. NAME	b. TELEPHONE NO. *(Include area code) (NO COLLECT CALLS)*
	Christine Grant	202-633-7290

SOLICITATION

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

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS *(Title, identifying no., date)*

This solicitation is for the for a design build contract of a Solar Array System for Agrivoltaics Research at the Smithsonian Environmental Research Center (SERC) (SF Project No. 2482101) located at 647 Contees Wharf Road, Edgewater, MD 21037.

The successful Contractor shall provide all labor, materials, tools, equipment, and services necessary to complete the design and construction of a 2.0 MW DC system that consists of four distinct array configurations on a single 12-acre parcel, owned by the Smithsonian Institution, designed to support agrivoltaics research with varying heights, orientations, and spacing as specified in the attachments, and in accordance with all solicitation and contract terms and conditions provided in this Request for Proposal.

11. The Contractor shall begin performance 0 calendar days and complete it within 0 calendar days after receiving ☐ award, ☒ notice to proceed. The performance period is ☐ mandatory ☒ negotiable. (See _____.)

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

12b. CALENDAR DAYS: 0

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 1500 *(hour)* local time 06/22/2026 *(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 NO. *(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. ACKNOWLEDGEMENT OF AMENDMENTS

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

AMENDMENT NO.										
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:

Continued...

22. AMOUNT

23. ACCOUNTING AND APPROPRIATION DATA

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

ITEM

25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO

☐ 10 U.S.C. 2304(c) ( ) ☐ 41 U.S.C. 253(c) ( )

26. ADMINISTERED BY CODE OCON

OCON
MRC 1200
PO Box 37012
Washington DC 20013-7012

27. PAYMENT WILL BE MADE BY

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,

☐ 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)*

Christine Grant

30b. SIGNATURE

30c. DATE

31b. UNITED STATES OF AMERICA

BY

31c. DATE

NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	TOUR OF THE SITE: Offerors are required to attend a pre-proposal meeting at the site on Monday, May 4, 2026, at 9:00 AM at the SERC Schmidt Conference Center at 647 Contees Wharf Road, Edgewater, MD 21037. This meeting will allow Offerors to see the site, proposed connection points and related details. Firsthand information about the site will be essential for preparing offers. No questions about the RFP will be answered at the site visit. Failure to visit the site will not constitute a basis for a claim for change due to differing site conditions. QUESTIONS/ SUBMITTALS: It is desired that all questions be sent in word format, sequentially numbered for example first questions 1, 2, 3, second set of questions 4, 5, 6, etc. to grantca@si.edu. It is requested that all questions be sent in by Monday May 18, 2026, no later than 3PM EST. All answers to every question from any offeror will be provided in writing to all offerors on SAM.gov. SUBMISSION: Proposals must be submitted via Dropbox no later than 3:00 PM on Monday June 22, 2026, using the following link: ***https://www.dropbox.com/request/DeP3uaIaA1weP7iTVWiJ*** . Each file shall be labeled with the Company Name, File Name, Solicitation Name/Number. If any pricing information is on the Technical Proposal, you will be disqualified. SUBCONTRACTING PLAN REQUIREMENTS: The successful Offeror submits with their proposal a Small Business Subcontracting Plan which will be evaluated for compliance with FAR 19.7. For the purposes of this project, the following goals are considered reasonable and achievable during the term of the contract: 40 % a minimum of the planned subcontracting dollars to be placed with small business concerns. (The following are subsets of the small business goal): 7 % a minimum of the planned subcontracting Continued ...				

NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	dollars to be placed with service-disabled Veteran owned small business (SDVSB) concerns.				

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A – Solicitation/ Contract Form

See Pages 1-4 of SF 1442

B - Services/Prices

B.1. The Smithsonian Institution intends to award a firm fixed-price design-build construction contract to the successful Contractor/Offeror.

B.2. Pricing – The successful Contractor/Offeror shall identify all costs associated with the Smithsonian Environmental Research Center (SERC) Solar Array System for Agrivoltaics Research, as set forth in the Construction Documents. Offerors are required to provide the Base Cost Proposal with Options Submission. The format for the Base Cost Proposal Submission shall be the Construction Specifications Institute (CSI) divisions of work. Break down the Base Cost Proposal Submission into the CSI division listed in the Specifications. *See Attachments for Bid Sheet.*

52.232-18 Availability of Funds. (Apr 1984)

Funds are not presently available for this contract. The Government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer.

C - Description/Specifications

C.1. Project Overview

This Request for Proposals (RFP) is issued by the Smithsonian Institution (SI), hereinafter referred to as the "Smithsonian" or SI, to obtain the services of a Design-Build Contractor, also referred to as Offeror or Contractor, who shall be singularly responsible to satisfy the terms of the resulting contract. This contract will provide Design-Build services for the design and construction of a ground mounted Photovoltaic (PV) system (henceforth to be referred to as "agrivoltaics") consisting of four distinct configurations (arrays) with a total output of 2.0 Megawatts (MW) DC, for the purpose of agrivoltaics research.

The project will be located on approximately 12 acres of agricultural land on SI property, located behind the Woodlawn House on Contees Wharf Rd. in Edgewater, MD 21037. This property is part of the Smithsonian Environmental Research Center (SERC) located at 647 Contees Wharf Road, Edgewater, MD 21037, as described herein and in Part 2 General Requirements and all Attachments. Refer to the attachments for a map showing the agricultural field that is designated for the agrivoltaics project. The project must consist of a variation of arrays as shown in Attachment 4, and connections, as required to fully comply with Baltimore Gas & Electric (BG&E) and Maryland General Assembly's net aggregate metering regulation requirements and limitations (State of MD COMAR 20.50.10), and to provide the most cost-effective design and construction solution.

The contract will be a Firm Fixed-Price Contract. The contractor for this project will be competitively chosen using Source Selection procedures. SI will evaluate all responses using the criteria stated herein.

The purpose of this Request for Proposals (RFP) is to select a Design-Build Contractor to provide all labor, materials, tools, equipment, and services necessary to complete the design and construction of a 2.0 MW DC system that consists of four distinct array configurations on a single 12-acre parcel, owned by the Smithsonian Institution, designed to support agrivoltaics research with varying heights, orientations, and spacing as specified in Attachments.

All the requirements that the successful Offeror must meet concerning this project are set forth in detail in the Solicitation Documents included with this Request for Proposal. Upon the receipt of Technical, Cost, and Schedule Proposals and the selection of a successful Offeror, SI will execute a Design/Build construction contract.

This Request for Proposal (RFP) is intended to provide all Offerors with sufficient information to prepare and submit offers for technical, cost, and schedule review by SI.

This solicitation neither commits SI to pay any proposal preparation costs nor obligates SI to procure or contract for construction or any other services. It shall not be construed as authorization to proceed with or be reimbursed for any of the costs for any of the work specified herein.

C.2. Services to be Provided.

The services for this project include but are not limited to, serving as the Architect/Engineer of Record (registered in Maryland), preparing construction documents, providing general construction services, and completing construction, commissioning, and delivery of the project and the agrivoltaics solar array(s). It shall be the responsibility of the Offeror to design and construct this project in accordance with SI's design and construction guidelines and complete construction while meeting all specified project requirements and applicable laws, codes, regulations, and permit requirements.

The Design-Build Contractor shall have a full understanding of the content of this solicitation and the attached and referenced documents as well.

The Contractor, at its own expense, shall furnish all engineering, design, construction, labor, supervision, facilities, permitting, materials, equipment, transportation, supplies, installation, commissioning, interconnection (including all required interconnection studies and required upgrades), and all other services necessary to install the on-site solar agrivoltaics system capable of performing the requirements of this Statement of Work (SOW) in accordance with all solicitation and contract terms and conditions provided therein, including the BGE requirements identified in the Interconnection Study.

The Design-Build Contractor shall have complete responsibility for the design and construction of the agrivoltaics project and the site improvements, including timely delivery within the required project completion date and budget.

The scope of Design Phase Services will require, at a minimum, Professional Engineering and related consulting services for agrivoltaics design and construction documents submitted at 50%, 100%, and Final design, specifications, and schedules.

The scope of services includes confirming, applying for, funding, and obtaining all permits and approvals required to lawfully complete the project. SI will provide available information related to this, but the contractor will remain responsible for verifying all information the SI provides. Permits required may include those from/for:

- Maryland Department of the Environment (MDE) Stormwater Management
- Wetland and Buffer Zone Protection
- Baltimore Gas and Electric

The scope of construction services will require at a minimum: Site preparation and improvements, procurement, project inspection, monitoring, billing, interconnection fees, site utilities, drainage and stormwater management plan, electrical, perimeter security fencing, paving, administration of the construction contract and all subcontracts, coordination of regular construction meetings, scheduling, maintaining construction records, including daily logs and monthly reports, monitoring of construction costs, all services included in the contract documents, systems commissioning, warranties and guarantees, and other required supplemental services as required under the contract. Contractor to include the cost to accommodate stormwater management requirements.

The Contractor shall provide professional, technical, administrative, and clerical personnel as needed to perform all required services including, but not limited to, those described in this Solicitation.

Public restrooms will not be available at the construction site; contractor shall provide & maintain sanitary facilities at locations approved by SI COTR and shall remove them upon completion of work.

C.3. Project Summary and Requirements

BASE BID

Design and construct a 2.0 MW DC agrivoltaics system for the purpose of agrivoltaics research.

The following applies to all contractor-designed systems: Applicable SI Facilities Design Standards and Smithsonian Facilities (SF) Codes, Standards and Guidelines, latest editions, which apply to the design, construction, maintenance, and repair of SI facilities. These documents are available online at: Architect-Engineer Information Center | Facilities (si.edu)

The Smithsonian Institution (SI) is the Authority Having Jurisdiction (AHJ) for design review and acceptance. The Work shall comply with: (1) NFPA 70 (NEC) 2023, (2) IEEE Std 1547-2018 and IEEE 1547a-2020, (3) UL and ANSI standards cited herein including UL 61730 and UL 3741, (4) BGE interconnection requirements and tariffs, (5) COMAR Title 20, Subtitle 50 (Interconnection, Net Metering), and COMAR 26.17.02 (Stormwater), and (6) SI Facilities Design Standards and SF Codes, Standards & Guidelines. In case of conflict, the stricter requirement governs; the SI AHJ will resolve ambiguities in writing. The County Building codes/inspections will generally not apply. All MDE, stormwater and other environmental permit requirements are applicable to the project.

This work includes design and construction of the following key components for the agrivoltaics project**.** Contractor shall consider the following Design Guidelines when designing the agrivoltaics project:

- The contractor shall develop a design utilizing equipment manufactured in the United States for a complete ground-mounted agrivoltaics system. For the avoidance of doubt, construction of the agrivoltaics system shall not include any "material assistance from a prohibited foreign entity" as such term is defined in 26 U.S.C. § 7701(a)(52). The contractor shall provide written certification of compliance with this requirement and the overall supply chain.
- The entire site does not need to be utilized. It is the responsibility of the contractor to assess site topography and geotechnical attributes to identify the most cost-effective placement of the array(s) and estimate the resulting project installation costs.
- Contractor is responsible for securing the environmental permits necessary to install a ground-mounted system. The cost of environmental and other required permits must be included in the proposed price.
- The design of the agrivoltaics system shall result in a DC to AC ratio of 1.2 (subject to change dependent on design and equipment availability after written authorization from the SI COTR).
- The design and construction shall include four distinct array configurations as outlined in attachment 4. Each of the four arrays shall be electrically separable with dedicated inverters and MPPTs for each array to enable performance comparisons. Provide combiner/SCADA tagging to align electrical points with research plots.
- The contractor shall use prevailing best practices in agrivoltaics system design.
    - The agrivoltaics system shall comply with the most recent version (as of award, and unless otherwise noted) of the following codes, standards, and regulations:
        i. The National Electrical Code Article 105.10
        ii. ASCE 7-22
        iii. IEEE 1547
        iv. UL 1741
        v. UL 71730-1/-2
        vi. UL 2703
        vii. UL 4703
- Solar panel specifications:
    - Contractor shall assess the topography and geotechnical attributes of the land and other system efficiency impacts (self-occlusion, seasonal changes, inverter startup voltage requirements, etc.) to determine the optimal overall panel orientation.
    - Contractor shall consider Mono-facial or Bi-facial panels, degree of panel tilt, fixed-tilt system or single-axis tracking system and other options to develop a design that best meets the intent of the project.
    - Panel tilt shall also take into consideration site latitude and wind conditions.
    - The selection of solar panels should be based upon a consideration of multiple factors, listed in approximate order of importance:

i. Modules: System modules shall be manufactured in the United States, UL71730-1/-2 listed, and CEC-listed.
ii. power production requirements and the associated traits of:
    1. the amount of space available for the installation
    2. product/panel efficiency
iii. maximizing return on investment and the associated traits of:
    1. product/panel cost
    2. ease of system maintenance
    3. system quality and longevity

iv. Modules will be screened for quality using results from nationally recognized test labs (NRTLS), which share results publicly under pre-negotiated agreements with module manufacturers. Offeror shall submit independent evidence of product reliability such as the PV Evolution Labs (PVEL) annual scorecard and/or Renewable Energy Test Center (RETC) – PV Module Index (PVMI). Modules delivered to the project site must have the same bill of materials (BOM) as tested.
v. Availability and lead time for delivery.

- PV hazard control shall comply with NEC 690.12; UL 3741 may be used as an array-level rapid shutdown compliance path where acceptable to the AHJ. Inverters shall be certified for IEEE 1547-2018 and listed per UL 1741 SB/SA as applicable by BGE.
- Modules shall have a minimum of a 25-year performance warranty. No module shall generate less than 97% of its standard testing conditions during year one, nor shall the modules degrade by more than 0.5% per year during the required 25-year minimum module warranty period.

- Electrical
  - Wire management: comply with NEC article 690 regarding mis-mating of quick connects. Additionally, no plastic wire ties shall be used, only purpose-built wiring hangers and braided metal bundlers. Array wiring shall not be routed in a way that results in direct sun exposure. Wiring shall be designed and installed in a manner to minimize likely interference with proximate agricultural activities.
  - If the Contractor correlation process needs additional system information, the Contractor shall request this information in advance from the SI representative or contracting officer's technical representative (COTR). The Contractor shall coordinate with the SI representative to obtain additional information which may be required. The SI makes no guarantees as to the availability or accuracy of documentation.
  - Electrical enclosures for critical system components (including but not limited to sensors, service panels, switches, combiners, and inverters) shall be at a minimum corrosion resistance per NEMA 4X.
- Inverters
  - Shall be manufactured in the United States, UL1741 listed and must be CEC-listed with an efficiency of 95% or higher. Inverters shall have at least a 10-year limited warranty.
  - Contractor shall consider the use of larger 1500 Vdc string inverters (100kW-200kW) due to their higher system efficiency.
  - Offerors shall consider the lead time needed to acquire inverters (and other critical equipment) and advise the SI prior to making selections that could result in delays which would impact the project timeline. The contractor shall proactively offer alternative equipment selections to the SI that could preclude such delays.
    i. When determining inverter quantities and capacities, the contractor shall consider beneficial redundancies to minimize production losses if any one inverter should fail.
- Baltimore Gas and Electric (BGE) requirements:
  - Current Aggregate Net Metering in MD is limited to a maximum of 2 MW for this project.

- The interconnection study and conditional approval from BGE is provided as Attachment 2. An additional study will not be required. Compliance with the study and associated requirements in Attachment 2 is required.
- The system(s) must connect to BGE, which is a 277/480 volt 3-phase Y-connected 4-wire system. The arrays' inverter must match BGE's voltage. The system design must meet all other interconnection requirements from BGE. The Contractor shall confirm and comply with all BGE requirements.
- The Contractor is responsible for complying with all electric utility interconnection requirements (including costs for all studies and upgrade requirements), providing all necessary documents if required: single line diagrams, estimated energy production data, catalog cuts, and other specifications and data with respect to the proposed new generating systems. The Contractor is responsible for gaining approval from BGE for interconnection and any electric utility-required upgrades. SI will assist in facilitating communications with BGE for this purpose.
- Contractor's proposal shall include a Reimbursable Allowance Item for BGE interconnection/upgrades in the amount of $600,000. The Contractor shall competitively procure, invoice at cost (no markups), and submit BGE invoices for SI review. Monthly allowance status reports are required; unused funds revert to SI. If actual costs exceed the allowance, the Contractor shall promptly notify SI with documentation; SI may increase the allowance via change order as justified.
- Contractor shall conform to BGE's Technical Interconnection Requirements and COMAR interconnection processes, provide IEEE 1547-2018 settings, and coordinate witness testing with BGEAll interconnecting lines will be buried in conduit below the frost line (likely 36 inches); solar array connections to point of interconnection shall be underground and in full compliance with SI design standards and BGE requirements, and sufficient for farming practices.
- Net metering/aggregate net metering shall comply with PUA §7-306 and COMAR 20.50.10. Contractor shall design metering topology and service arrangements to comply with the 2 MW per service limit and BGE tariff requirements.
- The system will include surge protection.

- Installation
  - All installations will include a 1-year limited workmanship warranty.
  - The design of the system shall also give due consideration towards future system or panel upgrades and the potential to increase system output in the future.
  - The Contractor shall provide technical data sheets for all equipment that will be used during the contract.
  - Availability of system repair/replacement parts shall be taken into consideration while designing the system. (i.e. already discontinued components shall not be incorporated into the system)
  - Simplicity and efficiency of system maintenance needs shall be taken into consideration during the design of the system, as well as considerations for agrivoltaics research.
  - Same Manufacturer and Product Line: Primary solar array components (i.e., modules and inverters) shall be from the same manufacturer, manufactured in the United States, and product line. For example, different brands of modules and inverters may not be mixed in one array, but it is acceptable to use a different brand of switchgear manufacturer.
  - New Equipment: The SI will not accept used, reconditioned, after-market, or grey-market products or equipment. Such equipment may not be the basis of any offer and will not be accepted under any contract award.
  - All major components (modules, inverters, racking, transformers) shall be manufactured in the United States in alignment with the Buy American Act.
  - Soil health shall be deliberately supported by all design and construction activities to support proximate agricultural activities. Topsoil segregation shall comply with MDE requirements for photovoltaic systems.

- Racking

- Chemical locking compounds shall NOT be employed in any part of the design or construction.
- All fasteners used shall comply with manufacturer torque specifications and NOT make use of generic torque callouts.
- System solar panel racks shall be designed to be able to accept replacement panels in the future.
- A 10-year limited racking warranty shall be included.
- Base will use either steel posts or helical screws, to maximize permeability, and ability to return land to full agricultural use.
- Conduit runs and system components should be placed close to the racking footings to avoid obstructing agricultural/scientific operations.
- Severe weather specifications shall comply with those specified herein.
- Racking placement shall:
    i. Allow for equipment access and field operations
    ii. Enable replicated research plots and data collection
    iii. Minimize soil disturbance and preserve long-term agricultural viability

- Marking and Labeling:
    - The Contractor shall be responsible for all field-applied markings as required by local, state, and federal codes.
    - Strict conformance to system marking (or labeling) requirements of agrivoltaics systems and their components is crucial for the safety of operators, service personnel, emergency responders, and others. General agrivoltaics system labeling requirements, per NEC 2023 Article 690 and specific requirements from Articles 110, 690 and 705, shall be followed. Include all required and desired labeling language in the design drawings for agency review.
    - Electrical equipment and components used in agrivoltaics systems shall have markings that identify the manufacturer, size, type, ratings, hazard warnings, and other specifications. Equipment markings shall never be removed, and all equipment markings must be durable for the environment in which the equipment is installed. Markings must be visible or easily accessible during and after installation.
- Agrivoltaics Monitoring System
    - Contractor shall include a remotely accessible turnkey power monitoring and metering system. It must be possible for the system to be integrated into the Stem's Athena platform or equivalent clean energy management system for display on the SI network; SI Office of the Chief Information Office must review and approve submitted protocol. The system shall display and analyze historical and live solar electricity generation data. The metering system must store data for at least three years and measure data at least every 15 minutes. The regularly collected data must include, but is not limited to, the following information:
        i. Average and accumulated output, by array (kWh/kW and total kWh)
        ii. Key weather parameters, to include
            1. solar intensity
            2. temperature
            3. wind speed
            4. rainfall
            5. cloud cover
        iii. Capacity factor
        iv. Air quality emissions averted (and real-world equivalents conversion)

- Design Package – the final design package shall include the following:
    - Must conform with the NREL (NLR inSPIRE) design guidelines and guidance for an agrivoltaics array platform for research.
    - Detailed description of the agrivoltaics project.
    - Construction documents and engineering calculations that are signed and sealed by a licensed engineer.
    - Layout drawing of installation site providing location of all equipment.

- Equipment details and manufacturer's specifications.
- Schedule for equipment procurement and installation.
- Description of how BG&E grid interconnection requirements will be met.
- Description of controls, monitors, and instrumentation to be used.
- Equipment and installation manuals.
- Safety plan.
- Quality control plan.
- Web-based monitoring over the life of the contract.

- Manuals: when manuals are mentioned within this document (such as equipment and installation manuals, O&M manuals, training, and safety manuals) the following submission standards apply:
  - 2 copies of manuals are to be provided physically using 3-ring binders AND
  - Manuals are also to be submitted electronically/digitally:
    i. In a pdf format
    ii. Via a solid-state storage device (such as a thumb drive) or via a downloadable cloud source

Civil/Site Work

- It is the responsibility of the contractor to assess site topography and geotechnical attributes to estimate costs and complete work related to project installation. Contractor remains responsible for verifying all subsurface conditions and designing appropriate foundations.
  - Specific BGE construction standards, including but not limited to those provided must be adhered to. The contractor is required to coordinate with BGE for all construction standards. The BGE requirements must be verified and adhered to by the contractor.
  - Design shall implement MDE Environmental Site Design (ESD) to the Maximum Extent Practicable per COMAR 26.17.02 and MDE Solar Panel Installations guidance, including non-rooftop disconnection, level spreaders/berms to maintain sheet flow on slopes ≤5%, and topsoil segregation/stockpile and restoration during trenching and backfill.
  - Contractor is responsible for securing the environmental permits necessary to execute the project and install a ground-mounted system. The cost of environmental permitting shall be included in the proposal.
  - Tree removals: The design of the system shall consider existing localized tree cover and its impact on solar efficiency, system upkeep, and the available ground area for the array(s). The contractor's design will indicate which trees, if any, should be topped or removed to maximize system performance and minimize system installation and maintenance costs. Contractor shall identify trees recommended for removal in 50% design submission. SI approval is required before proceeding. Contractor is responsible for obtaining any required tree removal permits and any required mitigation plantings per County/State/Federal requirements. If tree removal is proposed, the design will designate areas where replacement trees could be planted without negatively impacting the arrays' performance or maintenance needs. The design must accommodate any seasonal waterways, wetlands, or existing trees in the site. The agrivoltaics project will consist of four arrays located on one plot that is approximately 12 acres. The exact placement of the arrays with the area is to be determined by the Contractor in consultation with the SI.
  - Permanent fence installation: The design must include an 8' high chain link fence that penetrates at least 18" into the subsurface in order to prevent entry and subsequent crop damage from varmints. The design must include at least one non-powered access gate, matching the fence and providing an open width of 25 feet Contiguous interconnected fencing will encompass the entirety of the agrivoltaics array site, to include associated experimentation space (not only solar/electrical equipment)
  - Agrivoltaics project design will take into consideration ground cover/vegetation management requirements to ensure the safety and ease of future grounds maintenance. Environmentally friendly options should be considered.
  - Post-construction ground cover shall be native low growth, cannot be invasive, and must be selected with system function and ease of system maintenance in mind.

- Road Work
    - The design and construction must include a compliant access road. The finalized site must comply with Anne Arundel County and Local fire department access requirements, including an emergency access turn-around. Basic requirements are specified below but shall be confirmed with cognizant authorities.
        i. IFC Appx D, NFPA 1.
        ii. Must be permeable and support 40 tons.
        iii. Must be 20 feet wide.
        iv. Must have 10 feet of separation from structures.
        v. Must have large enough turnaround for equipment.
    - BGE road requirements must also be adhered to. In the case of any conflict between BGE and County requirements, the stricter requirement must be adhered to such that all requirements are satisfied.
    - Paving design must accommodate fire department and BGE vehicle loads.
    - Include 25 feet of space between arrays and fence as an edge buffer (no paving or gravel - just ground cover).
- Sediment & Erosion Control and Stormwater Management
    - The contractor will be responsible for the preparation, submission (via SI), and approval/permitting of all required storm water management and erosion control plans. The cost for the preparation and approval shall be included in the proposal and the awarded contract.
    - Contractor shall resolve all MD Department of the Environment requirements to obtain necessary permits.

- Site Utilities:
    - Electrical service shall be provided as needed to fulfill all contract requirements.
    - Existing utility locations shown on site maps are approximate. Contractor is responsible for verifying all utilities, obtaining utility locate services, and coordinating any conflicts.

Operations and Maintenance (O&M) Manuals and Product Information:

- Contractor shall provide manufacturer's product information for all installed equipment and components and shall provide comprehensive O&M Manuals for the entire system and its major components and subsystems.
- Contractor shall supply SI two copies of all Component Product Data and Component O&M manuals after successful startup. The information shall be sufficient for SI to either perform the O& or evaluate and ensure appropriate O&M is being completed over the life of the system. Examples of components include solar panels, conduits, inverters, switch gear, net metering equipment, etc. Project as-builts that detail the locations of all above and underground utilities and components shall be submitted within 30 days of system start-up.

OPTION 1:
Operation and Maintenance of the Agrivoltaics System:
Provide O&M services for a period of one (1) year with the opportunity to exercise further options to extend this service for up to four (4) additional one-year periods. The O&M services to be provided shall be fully articulated in the proposal and shall include, at a minimum:

- General O&M services:
    - Online monitoring
    - Performance monitoring, notification, and troubleshooting – must have personnel available to notify SERC of an outage or decrease in system production. Outage notifications shall be made within one-hour from the start of the outage with an on-site response to begin corrective actions within 24-hours.
    - Corrective maintenance to mitigate any risk to the system or minimize down time.
    - System Performance Reports that compare actual production to predicted.
    - No less than two preventative maintenance and inspections per year to identify and fix problems before they occur, including infrared photography for hot spots, manufacturer recommended maintenance, hardware torque checks, IV-curve tracking or equivalent, and array cleanings.
    - Ground cover and vegetation management within the fenced-in area to preclude interference with system operation shall be included in the Operation and Maintenance (O&M) proposal.
    - Cost-plus to address corrective and unpredicted system needs.
- Specific O&M services will include:
    - Structure – Annually
        - Visually inspect the structure for excessive wear and repair with cold galvanized paint.
        - Visually inspect the structure ground bonding straps and repair and replace bonding straps as needed.
        - Spot check structural bolts for torque.
    - Modules – Annually
        - Visually inspect the array for damaged modules, including but not limited to hail damage. Spot-check mounting hardware for torque. Wash modules (rinse, brush, rinse).
    - Combiner Box (Recombiner Box) – Annually
        - Tighten all lugs inside equipment.
        - Check all fuses for cleared fuse. Replace any cleared fuses.
    - Inverter and Transformer Enclosure – Annually
        - Visually inspect the enclosure for rust/corrosion, repair by sanding area and touchup painting.
        - Clear out dust, dirt, etc. from inverter enclosure, fan, and heat sink.
        - Tighten all lugs inside inverter.
        - Check for proper cooling fan operation after inverter is restarted.
    - Testing – Annually
        - Test and record all circuits, voltage, current, light, temperature at sites using standard test procedure and log sheet supplied by the operator at the time of testing. Repair any faulty circuits. Log and report kWh totals for SI meter.

OPTION 2
Agricultural Water Well System:
The contractor shall provide pricing for a well system to supply each array suitable irrigation for year-round usage for agricultural purposes only. The well shall produce a minimum of 250gpm to support farming operations, with the following minimum requirements:

- Drilling should be conducted by setting a surface casing.
- Once surface casing is set contractor should continue with slim hole drilling followed by reaming.
- After reaming, the final production casing shall be a minimum 8-inch schedule 40 black steel pipe with plain-end welded joints, installed to a minimum of 400 feet.

- A screen shall be used on the pipe at 50 feet in length 8-inch, wire wrapped stainless steel screen (304 stainless steel).
- The piping must be gravel packed and grouted.
- Pump must be tested with a 250gpm test pump; pump testing shall continue for 24 hours using a data logger and well shall be allowed to recover 12 hours after.
- The contractor shall install a minimum of 30 horsepower, 480V, 3 Phase submersible pump rated at 250gpm.
- Install VFD pump control.
- Well shall include gpm flow meter(s) and gauge(s) capable of measuring and recording total gallons used in addition to any measurement systems required by MDE.
- Chlorinate and test system as required by Anne Arundel County Health Department and MDE.

D - Packaging and Marking

Submittals must be delivered to **https://www.dropbox.com/request/DeP3uaIaA1weP7iTVWiJ** by **3:00 PM ET on Monday June 22, 2026.**

Separate files for the Technical and Cost Proposals.
Each file shall be label with the Company Name, File Name , Solicitation Name/ Number
If any pricing information is on the Technical Proposal, you will be disqualified.

E - Inspection and Acceptance

52.246-S0038 Smithsonian Institution Inspection and Acceptance (Jun 2000)

Inspection and acceptance may be made on a daily basis on work performed at the job site, by the Contracting Officers Technical Representative. All work shall be coordinated through the COTR for acceptance of work, payrolls and invoice(s).

52.246-S0039 Final Inspection and Tests (Jun 2000)

The requirements of the Inspection of Construction clause prescribed in FAR 52.246-12, are supplemented to provide that the Contractor shall give the Contracting Officer at least 10 calendar days advance written notice of the date the work will be fully completed and ready for final inspection and tests. Final inspection and tests will be started within 10 calendar days from the date specified in the aforesaid notice unless the Contracting Officer determines that the work is not ready for final inspection and so informs the Contractor.

52.246-S0057 Inspection (January 2023)

(a) Upon proper notice and during normal working hours, the Smithsonian Institution reserves the right to perform any inspections and tests as deemed necessary to assure that the Contractor is performing in accordance with the terms and specifications as set forth herein.

(b) Inspection may be at the Contractor's place of business or at any location where work is being performed in conjunction with this contract.

(c) Inspection by the Smithsonian Institution shall not relieve the Contractor of responsibility for any or all quality control aspects during the life of the contract. This shall include quality control for items covered by this contract that may be subcontracted.

52.246-S0058 Acceptance (January 2023)

(a) The supplies and services rendered under this contract will be accepted and approved by the Contracting Officer or a designated representative thereto. Such approval will indicate acceptability to the Smithsonian

Institution of performance in accordance with the terms and conditions of this contract, and will be subject to applicable warranties. The Smithsonian Institution reserves the right to reject works not conforming to prescribed contract requirements.

(b) Neither the Smithsonian Institution's reviews, approval, or acceptance of services and/or supplies, nor payment for any of the services or supplies required under this contract shall be construed to operate as a waiver of action arising out of the performance of this contract. Furthermore, the Contractor shall be and remain liable to the Smithsonian Institution in accordance with applicable law for all damages to the Smithsonian Institution caused by the Contractor's negligent performance of any of the supplies or services furnished under this contract.

(c) Acceptance by the Smithsonian Institution does not relieve the Contractor of responsibility for correction of errors or omissions that may arise after such acceptance if the errors and omissions are clearly a fault in Contractor performance.

F - Deliveries or Performance

52.211-S0025 Commencement, Prosecution, and Completion of Work (Jun 2000)

(a) Definitions.

(1) The Contract Time is the period of time allotted in the Contract Documents for Final Completion of the Work as defined in this Construction Contract Clause, including authorized extensions thereto. The Contractor shall complete his Work within the Contract Time as stated in the SF 1442, or as modified.

(2) The date of commencement of the Work is the date established in the Notice To Proceed issued by the C.O. Submission by the Contractor of its Performance and Payment Bonds, Preliminary Schedule and all Certificates of Insurance and their approval by the S.I. are conditions precedent to the issuance of the Notice to Proceed. The Contractor shall not commence the Work or store materials or equipment on site until written Notice to Proceed is issued or until the Contractor otherwise receives the written consent of the C.O.

(3) The date of Substantial Completion of the Work or designated portion thereof is the date certified by the COTR when the Work or a designated portion thereof is sufficiently complete, in accordance with the Contract Documents, so the S.I. can fully occupy the Work or designated portion thereof for the use for which it is intended, with all of the Project's parts and systems operable as required by the Contract Documents. Only punch list work and any final cleaning beyond that needed for the S.I.'s full use may remain for Final Completion.

(4) The date of Final Completion of the Work is the date certified by the COTR when the Work is totally complete, to include punch list work and final clean up, in accordance with the Contract Documents and the S.I. may fully occupy and fully utilize the Work for the use for which it is intended.

(5) If a date or time of completion is included in the Contract, it shall be the Date of Final Completion as defined in this Construction Contract Clause, including authorized extensions thereto, unless otherwise provided.

(6) The term Day as used in the Contract Documents shall mean calendar day unless otherwise specifically designated. All dates shall mean midnight of the indicated day unless otherwise stipulated.

(b) Progress and Completion.

(1) All time limits stated in the Contract Documents are of the essence of the Contract.

(2) The Contractor shall prosecute the Work diligently to Final Completion.

(c) Delays and Extensions of Time.

(1) The time during which the Contractor is delayed in the performance of the Work, by the acts or omissions of the S.I., the Architect, or their employees or agents, acts of God, unusually severe and abnormal climatic conditions, fires, floods, epidemics, quarantine restrictions, strikes, riots, civil commotion or freight embargoes, or other conditions beyond the Contractor's control and which the Contractor could not reasonably have foreseen and provided against, shall be added to the Contract Time; provided, however, that no claim by the Contractor for an extension of time for delays will be considered unless made in compliance with the requirements of this Article and other provisions of the Contract Documents.

(2) Neither the S.I., nor the Architect shall be obligated or liable to the Contractor for, and the Contractor hereby expressly waives any claims against the S.I. and the Architect on account of any indirect or direct damages, costs or expenses of any nature which the Contractor, Subcontractors, of Suppliers or any other person may incur as a result of any delays, interference, changes in sequence or the like, which are reasonable, foreseeable, contemplated, or avoidable by the Contractor, arising from or out of any act or omission of the S.I. of the Architect, or their agents, employees, consultants, separate contractors or any governmental representative, it being understood and agreed that the Contractor's sole and exclusive remedy in any such events shall be an extension of the Contract Time, but only as determined in accordance with the provisions of the Contract Documents.

(3) The Contract Time shall be adjusted only for Change Orders pursuant to the Construction Contract Clause entitled "Changes", excusable delays pursuant to Construction Contract Clause entitled "Delays and Extensions of Time" and Construction Contract Clause entitled "Smithsonian Institution's Right to Stop or to Suspend the Work". In the event the Contractor requests an extension of the Contract Time, he shall furnish such justification and supporting evidence as the C.O. may deem necessary for a determination of whether the Contractor is entitled to an extension of time under the provisions of the Contract. The burden of proof to substantiate a claim for an extension of the Contract Time shall rest with the Contractor, including evidence that the cause was beyond his control. The C.O. shall base his findings of fact and decision on such justification and supporting evidence and shall advise the Contractor in writing thereof. If the C.O. finds that the Contractor is entitled to any extension of the Contract Time, the C.O.'s determination of the total number of days' extension shall be based upon the currently approved Progress Schedule and on all data relevant to the extension. Such data will be incorporated into the Progress Schedule in the form of a revision thereto, accomplished in a timely manner. The Contractor acknowledges and agrees that actual delays (due to said changes, suspensions of work or excusable delays) in activities which, according to the Progress Schedule, do not affect the Contract Time, do not have any effect upon the Contract Time and therefore will not be the basis for a change therein. The Contractor acknowledges and agrees that time extensions will be granted only to the extent that excusable delays exceed the available float in the Contractor's Progress Schedule.

(4) Subject to other provisions of the Contract, the Contractor may be entitled to an extension of the Contract Time (but no increase in the Contract Price) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, his Subcontractors or Suppliers as follows:

(i) Labor disputes and strikes (including strikes affecting transportation), that do, in fact, directly and critically affect the progress of the Work; however, an extension of Contract time on account of an individual labor strike shall not exceed the number of days of said strike;

(ii) Acts of God, tornado, fire, hurricane, blizzard, earthquake, typhoon, or flood that damage completed work or stored materials.

(iii) Abnormal inclement weather; however, the Contract Time will not be extended due to normal inclement weather. The time for performance of this Contract, as stated in the Contract Documents, includes an allowance for calendar days, which may not be available for construction out-of-doors; for the purposes of the Contract, the Contractor agrees that said number of calendar days per month are to be considered as normal inclement weather. Unless the Contractor can substantiate to the satisfaction of the S.I. that there was greater than normal inclement weather considering the full term of the Contract Time using a ten year average of accumulated record mean values from climatological data compiled by the U.S.

Department of Commerce, National Oceanic and Atmospheric Administration for the locale of the Project and that such alleged greater than normal inclement weather actually delayed the Work or portions thereof which had an effect upon the Contract Time, the Contractor shall not be entitled to an extension of time. If the total accumulated number of calendar days lost due to inclement weather, from the start of Work until Final Completion, exceeds the total accumulated number to be expected for the same period from the aforesaid climatological data, time for completion will be extended by the number of calendar days needed to include the excess number of calendar days lost.

(iv) Acts of the public enemy, acts of the state, Federal or local government in its sovereign capacity, and acts of a separate contractor in the performance of its contract with the S.I. relating to the Project.

(5) The Contractor shall not be entitled to and hereby expressly waives any extension of time resulting from any conditions or cause unless said claim for extensions of time is made in writing to the C.O. within seven (7) days of the first instance of delay. Circumstances and activities leading to such claim shall be indicated or referenced in a daily field inspection report for the day(s) affected; otherwise, all such claims are waived by the Contractor. In every such written claim, the Contractor shall provide the following information:

(i) Nature of the delay;

(ii) Date (or anticipated date) of commencement of delay;

(iii) Activities on the Progress Schedule affected by the delay, and/or new activities created by the delay and their relationship with existing activities;

(iv) Identification of person(s) or organizations(s) or event(s) responsible for the delay;

(v) Anticipated extent of the delay;

(vi) Recommended action to avoid or minimize the delay.

(d) Responsibility for Completion.

(1) The Contractor shall furnish such manpower, materials, facilities and equipment and shall work such hours, including night shifts, overtime operations and Sundays and holidays, as may be necessary to insure the progress and completion of the Work in accordance with the approved and currently updated Progress Schedule. If Work actually in place falls behind the currently updated and approved Progress Schedule and it becomes apparent from the current Progress Schedule that the Work will not be completed within the Contract Time, the Contractor agrees that he will, as necessary, take some or all of the following actions at no additional cost to the S.I., as required to eliminate substantially the backlog of the Work:

(i) Increase manpower in quantities and crafts necessary

(ii) Increase the number of work hours per shift, shifts per working day, working days per week, the amount of equipment, or any combination of the foregoing; and/or

(iii) Re-schedule activities to achieve maximum practical concurrence.

(2) The COTR may require the Contractor to submit a Recovery Schedule in accordance with the Supplementary Construction Contract Clause, demonstrating his program and proposed plan to make up the lag in scheduled progress and to ensure completion of the Work within the Contract Time. If the COTR finds the proposed plan not acceptable, he may require the Contractor to submit a new plan. If the actions taken by the Contractor or the second plan proposed are not satisfactory, the COTR may require the contractor to take any of the actions set forth in this Construction Contract Clause without additional costs to the S.I., to make up the lag in scheduled progress.

(3) Failure of the Contractor to comply substantially with the requirements of this Construction Contract Clause may be considered grounds for a determination by the S.I., pursuant to the Construction Contract

Clause entitled "Default", that the Contractor is failing to prosecute the Work with the sufficient diligence to ensure its completion with the Contract Time.

52.211-13 Time Extensions. (SEP 2000)

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

(End of clause)

52.228-S0081 Period of Performance-Bonds & Insurance-Construction (January 2023)

Contractor must submit approved Certificate of Insurance and Performance/Payment Bonds within ten (10) days of contract award.

52.236-S0036 Smithsonian Institution's Right to Stop or to Suspend the Work (Jun 2000)

(a) If the Contractor fails to correct defective Work as required by the Construction Contract Clause entitled "Correction of Work", or fails to carry out the Work or supply labor and materials in accordance with the Contract Documents, the C.O. by a written order may order the Contractor to stop the Work, or any portion thereof, without monetary compensation to the Contractor until the cause for such order has been eliminated.
(b) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the Work for such period of time as he may determine to be appropriate for the convenience of the S.I.
(c) If the performance of all or any part of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted by the S.I. or its authorized representatives in the administration of this Contract, or by failure of any one of them to act within the time specified in this Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for an increase in the actual time required for performance of the Work by the Contractor, due solely to such unreasonable suspension, delay, or interruption and the Contract modified in writing accordingly. However, no claim for an extension of time shall be made under this Construction Contract Clause for any suspension, delay, or interruption pursuant to this Construction Contract Clause, or for which claim is provided or excluded under any other provision of this Contract. No claim under this Construction Contract Clause shall be allowed for any claim for an extension of time required for performance, unless within twenty (20) days after the act or failure to act involved, the Contractor submits to the COTR a written statement setting forth, as then practicable, the extent of such claimed time extension and unless the claim for an extension of time is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption. No claim shall be made for direct or indirect costs incurred by Contractor as a result of the events described in this Construction Contract Clause, a time extension being the Contractor's sole remedy.
(d) A claim under this clause shall not be allowed (1) for any costs incurred more than twenty (20) days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.
(e) In the event of a suspension of work or delay or interruption of work, the Contractor will and will cause his subcontractors to protect carefully his, and their materials and work against damage or injury from the weather and maintain completed and uncompleted portions of the work as required by the Contract Documents. If, in the opinion of the COTR, any work or material shall have been damaged or injured by reason of failure on the part of the Contractor or any of his subcontractors to so protect same, such work and materials shall be removed and replaced at the expense of the Contractor.

(f) No claim by the Contractor for an equitable adjustment under the Construction Contract Clause entitled "Equitable Adjustments", shall be allowed if asserted after Final Payment under this Contract.

52.237-2 Protection of Government Buildings, Equipment, and Vegetation.

52.246-S0041 Additional Warranties and Guarantees (Jun 2000)

(a) The Contractor guarantees and warrants to the S.I. all work as follows:

(1) That all materials and equipment furnished under this Contract will be new and the best of its respective kind unless otherwise specified;

(2) That all Work will be first-class quality and free of omissions and faulty, poor quality, imperfect or defective material or workmanship;

(3) That where no standard is specified for such workmanship or materials, they shall be the best of their respective kinds;

(4) That the Work shall be entirely watertight and leakproof in accordance with all applicable industry customs and practices, and shall be free of shrinkage and settlement, (normal shrinkage inherent in the specified materials is acceptable);

(5) That the Work, including but not limited to, mechanical and electrical machines, devices and equipment shall be fit and fully usable for its intended and specified purpose and shall operate satisfactorily with ordinary care;

(6) That consistent with requirements of the Contract Documents the Work shall be installed and oriented in such a manner as to facilitate unrestricted access for the operation and maintenance of fixed equipment;

(7) That the Work will be free of abnormal or unusual deterioration which occurs because of poor quality materials, workmanship or unsuitable storage.

(b) All work not conforming to guarantees and warranties specified in the Contract Documents, including substitutions not properly approved and authorized, may be considered defective. If required by the COTR, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of the Construction Contract Clauses entitled "Uncovering of Work" and "Correction of Work".

(c) The warranties set forth in this Construction Contract Clause entitled "Additional Warranties and Guarantees" and elsewhere in the Contract Documents shall survive Final Completion of the Work under the Construction Contract Clause entitled "Payments and Completion".

(d) If, within one year after the Date of Final Completion of the Work or designated portion thereof or within one year after acceptance by the S.I. of designated equipment or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective, not in accordance with the Contract Documents, or not in accordance with the guarantees and warranties specified in the Contract Documents, the Contractor shall correct it within five (5) working days, or such other period as mutually agreed, after receipt of a written notice from the COTR to do so.

(e) Any materials or other portions of the Work, installed, furnished or stored on site which are not of the character or quality required by the specifications, or are otherwise not acceptable to the COTR, shall be immediately removed and replaced by the Contractor to the satisfaction of the COTR, when notified to do so by the COTR.

(f) If the Contractor fails to correct defective or nonconforming Work as required by the Construction Contract Clause entitled "Correction of Work", or if the Contractor fails to remove defective or nonconforming Work from the site, as required by the Construction Contract Clause entitled "Uncovering

of Work", the S.I. may elect to either correct such work in accordance with the Construction Contract Clause entitled "Smithsonian Institution's Right to Carry Out The Work", or remove and store materials and equipment at the expense of the Contractor.

(g) The Contractor shall bear the cost of making good all work of the S.I., separate contractors or others, destroyed or damaged by such correction or removal required under this Construction Contract Clause or the Construction Contract Clauses entitled "Uncovering of Work" and "Correction of Work", or elsewhere in the Contract Documents.

G - Contract Administration Data

52.202-S0059 Contract Management (January 2023)

Notwithstanding the Contractor's responsibility for total management during the performance of this contract, the administration of the contract will require maximum coordination between the Smithsonian and the Contractor. The following individuals will be the Smithsonian points of contact during the performance of the contract.

52.202-S0060 Contracting Officer (January 2023)

All contract administration will be effected by the Contracting Officer. Communications pertaining to contractual administrative matters will be addressed to the Contracting Officer. No changes in or deviation from the scope of work shall be effected without a written modification to the contract executed by the Contracting Officer authorizing such changes.

52.202-S0061 Contracting Officer's Technical Representative (COTR) (Apr 1988)

(a) The Contracting Officer's Technical Representative (COTR), or their authorized representative shall act for and on behalf of the Contracting Officer in the administration of any resultant contract with respect to:

1. Resolution of issues that may arise between the Contractor and the Smithsonian Institution in connection with such matters as acceptability of workmanship and other technical requirements;

2. Evaluation on an overall basis of the acceptability of workmanship and Contractor's compliance with technical requirements; and

3. The approval and acceptance of work performed under this contract.

(b) This delegation does not authorize the modification of any of the contract's provisions, terms or conditions. All authorities not herein delegated are reserved to the Contracting Officer.

(c) The Contractor shall make available such records, reports and facilities as may be required to carry out this assignment.

52.202-S0062 Authorities (January 2023)

The Contractor is advised that only the Contracting Officer can change or modify the terms of this contract or take any other action which obligates the Smithsonian and then such action must be set forth in a formal modification to the Contract. The authority of the COTR is strictly limited to the specific duties set forth in her letter of appointment, a copy of which will be furnished the Contractor. Contractors who rely on direction from persons other than the Contracting Officer (or a COTR acting within the strict limits of his/her responsibilities as set forth in his/her letter of appointment) do so at their own risk and expense, as such actions do not bind the Smithsonian contractually. All questions concerning the authority of a Smithsonian employee to direct the Contractor contractually should be referred to the Contracting Officer.

52.215-S0002 Authorized Negotiators (Apr 1984)

The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations: [list names, titles, and telephone numbers of the authorized negotiators].

_____

_____

_____

_____

_____

52.215-S0063 Key Personnel (January 2023)

(a) The Contractor shall include the key personnel to be assigned under this contract those persons listed below:

NAME LABOR CATEGORY

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

Offerors shall also provide this information in their technical proposal.

(b) The persons named above are considered key personnel. The Contractor shall give at least 14 calendar days advance notice if any of these persons are to be removed or diverted from this contract, and shall supply written justification as part of this notice, and shall name the proposed substitute or replacement; but the Contractor will not remove or divert such persons unless authorized by written consent of the Contracting Officer.

(c) General Approval. All Contractor personnel assigned to this contract are subject to Smithsonian review in accordance with the defined labor categories herein. Contractor personnel found unacceptable by the Smithsonian at any time shall be removed from performing under this contract within 14 calendar days after notification. Such notification shall be delivered in writing by the Contracting Officer to the Contractor.

H - Special Contract Requirements

52.202-S0010 Use of Smithsonian Name (Jun 2000)

It is recognized and acknowledged that Contractor shall have no right to use the name "Smithsonian" or "Smithsonian Institution", or the name of any Smithsonian Museum or part thereof, including the Facilities, in connection with any of its own advertising, marketing or promotion. However, any marketing or promotional programs concerning the Smithsonian or the Project shall be submitted to the Smithsonian for review and approval prior to any implementation thereof. The Smithsonian may withhold any approval required hereunder as it wishes.

The Prime Contractor shall be responsible for compliance by any subcontractor or supplier or lower tier subcontractor or lower tier supplier with this clause. After award of the contract and upon request of the Contracting Officer, the Prime Contractor shall deliver a written statement acknowledging that this clause has been included in contracts with all subcontractors and suppliers.

52.203-S0004 Advertising of Award Smithsonian Institution (January 2023)

The Contractor shall not refer to the Smithsonian or to any of its museums, organizations, or facilities in any manner or through any medium, whether written, oral or visual, for any purpose whatsoever, including advertising, marketing, and promotion.

52.215-S0009 Information, Services and Rights of the Smithsonian (Apr 1988)

(a) The S.I., through the C.O. and COTR, will provide administration of the contract as hereinafter described.

(b) The S.I. or its authorized representatives shall at all times have access to the Work whenever it is in preparation or progress. The Contractor shall provide safe facilities for such access.

(c) The S.I. or its authorized representatives shall not be responsible for or have control or charge of the construction means, methods, techniques, sequences, or procedures, or for safety precautions and program in connection with the Work, and will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

(d) The COTR shall have authority to reject Work when in his opinion, the Work does not conform to the Contract Documents.

(e) Whenever in the COTR's reasonable opinion it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the COTR will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents whether or not such Work be then fabricated, installed or completed.

(f) The COTR shall have the authority and discretion to call, schedule, and conduct job meetings to be attended by the Contractor, representatives of his Subcontractors, and the Architect to discuss such matters as procedures, progress, problems, payments and scheduling.

(g) The COTR will establish procedures to be followed for processing all Shop Drawings, catalogs, and other project reports and other documentation, test reports, and maintenance manuals.

(h) The COTR will review all requests for changes and shall implement the processing of Change Orders, including applications for extension of the Contract Time.

(1) The COTR will review and process all Progress Payments including the Final Payment.

(2) The Smithsonian Institution or its authorized representatives shall not be responsible or liable to the Contractor for the acts, errors or omissions of the Contractor, any separate Subcontractor, any separate contractor or any contractor's or subcontractor's agents or employees, or any other persons performing any of the Work.

(k) Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, ten copies of full size Drawings and Specifications reasonably necessary for the execution of the Work.

(l) The foregoing rights are in addition to other rights of the S.I. enumerated herein and those provided by law.

52.223-S0070 Dissemination of Information (January 2023)

There shall be no dissemination or publication of information, except between the Contractor and any subcontractors, of information developed under this contract or any task orders awarded under the terms of this contract or contained in reports to be furnished pursuant to this contract
without the prior written approval of the Contracting Officer.

52.236-S0030 Availability and Use of Utility Services (Jun 2000)

(a) The Government shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. These services shall be furnished without charge to the Contractor. The Contractor shall carefully conserve any utilities furnished without charge.

(b) The Contractor, at its expense and in a workmanlike manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines. Before final acceptance of the work by the Government, the Contractor shall remove all the temporary connections, distribution lines, and associated paraphernalia.

52.236-S0031 Use of Site (Jun 2000)

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, easements, right-of-way agreements and the Contract Documents. The Contractor shall not unreasonably encumber the site, in the opinion of the COTR, with any materials, equipment or trailers nor shall he block the entrances or otherwise prevent reasonable access to the site, other working and parking areas, completed portions of the Work and/or other properties, storage areas, loading dock and other areas of the work site or areas that are adjacent to the work site. If the Contractor fails or refuses to move said materials, equipment or trailers within 24 hours of notification by the COTR to so do, the COTR shall have the right, without further notice, to remove, at the Contractor's expense, any material, equipment and/or trailers which the COTR deems are in violation of this Construction Contract Clause entitled "Use of Site".

52.242-S0020 Historic & Archeological Rights (Jun 2000)

(a) If during the excavation of the site items of historic and archeological significance are found, the contractor shall stop work and notify the COTR immediately. Subsequent excavation work shall proceed as directed by the COTR.

(b) All items considered by the Smithsonian Institution to have historic or archaeological significance are the property of the Smithsonian Institution.

SI-0091 Internet Protocol Version 6 (IPv6) Compliance (Jan 2006)

In the event that Contractor will be developing, acquiring, and/or producing products and/or systems pursuant to this Contract that will be connected to a network or that will interface with the World Wide Web, the following provisions shall apply:

1. OMB Memo M-05-22, dated August 2, 2005, requires that all agencies' infrastructure must be using IPv6 and all agency networks must interface with this infrastructure by June 2008.

2. The Contractor hereby warrants and represents that the products and/or systems to be developed, acquired, and/or produced pursuant to this Contract will be IPv6 compliant. These products and/or systems must be able to receive, process, and transmit or forward (as appropriate) IPv6 packets and must be able to interoperate with other systems and protocols in both IPv4 and IPv6 modes of operation.

3. If the product or system will not be compliant initially, the Contractor will provide a migration path and express commitment to upgrade to IPv6 for all application and product features within 30 days of request from the COTR. Any such migration path and commitment shall be included in the Contract price. In addition, the Contractor will have available contractor/vendor IPv6 technical support for development and implementation and fielded product management.

SI-0092 Generative Artificial Intelligence (GenAI).

Contractor will not input or upload Smithsonian-provided content into any GenAI tools or applications that will use the content for purposes not essential to this Contract, including but not limited to training or scraping, without the Smithsonian's prior written approval.

I - Contract Clauses

52.203-3 Gratuities. (APR 1984)

52.203-5 Covenant Against Contingent Fees. (MAY 2014)

52.203-7 Anti-Kickback Procedures. (JUN 2020)

52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity. (MAY 2014)

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity. (MAY 2014)

52.203-12 Limitation on Payments to Influence Certain Federal Transactions. (JUN 2020)

52.203-13 Contractor Code of Business Ethics and Conduct. (NOV 2021)

52.203-14 Display of Hotline Poster(s). (NOV 2021)

(a) *Definition*.

United States, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) *Display of fraud hotline poster(s)*. Except as provided in paragraph (c)-

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites-

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

Poster(s) Obtain from

[Contracting Officer shall insert-(i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and (ii) The website(s) or other contact information for obtaining the poster(s).]

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) *Subcontracts*. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed the threshold specified in Federal Acquisition Regulation 3.1004(b)(1) on the date of subcontract award, except when the subcontract-

(1) Is for the acquisition of a commercial product or commercial service; or

(2) Is performed entirely outside the United States.

(End of clause)

52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010)

52.203-16 Preventing Personal Conflicts of Interest. (JUN 2020)

52.203-17 Contractor Employee Whistleblower Rights. (NOV 2023)

52.204-4 Printed or Copied Double-Sided on Postconsumer Fiber Content Paper. (MAY 2011)

52.204-7 System for Award Management. (OCT 2018)

52.204-12 Unique Entity Identifier Maintenance. (OCT 2016)

52.204-13 System for Award Management Maintenance. (OCT 2018)

52.204-19 Incorporation by Reference of Representations and Certifications. (DEC 2014)

52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities. (DEC 2023)

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021)

52.209-6 Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment. (NOV 2021)

52.215-8 Order of Precedence - Uniform Contract Format. (OCT 1997)

52.215-19 Notification of Ownership Changes. (OCT 1997)

52.216-4 Economic Price Adjustment - Labor and Material. (NOV 2021)

52.216-9 Fixed Fee - Construction. (JUN 2011)

52.222-1 Notice to the Government of Labor Disputes. (FEB 1997)

52.222-3 Convict Labor. (JUN 2003)

52.222-4 Contract Work Hours and Safety Standards - Overtime Compensation. (MAY 2018)

52.222-6 Construction Wage Rate Requirements. (AUG 2018)

52.222-7 Withholding of Funds. (MAY 2014)

52.222-8 Payrolls and Basic Records. (JUL 2021)

52.222-9 Apprentices and Trainees. (JUL 2005)

52.222-10 Compliance With Copeland Act Requirements. (FEB 1988)

52.222-11 Subcontracts (Labor Standards). (MAY 2014)

52.222-12 Contract Termination - Debarment. (MAY 2014)

52.222-13 Compliance With Construction Wage Rate Requirements and Related Regulations. (MAY 2014)

52.222-14 Disputes Concerning Labor Standards. (FEB 1988)

52.222-15 Certification of Eligibility. (MAY 2014)

52.222-40 Notification of Employee Rights Under the National Labor Relations Act. (DEC 2010)

52.222-50 Combating Trafficking in Persons. (NOV 2021)

52.222-50 Combating Trafficking in Persons. (NOV 2021) - Alternate I (MAR 2015)

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

Agent means any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.

Coercion means-

(1) Threats of serious harm to or physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of the legal process.

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

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

(i) A commercial product (as defined in paragraph (1) of the definition of "commercial product" at Federal Acquisition Regulation (FAR) 2.101);

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

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

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

Debt bondage means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Employee means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

Forced Labor means knowingly providing or obtaining the labor or services of a person-

(1) By threats of serious harm to, or physical restraint against, that person or another person;

(2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

(3) By means of the abuse or threatened abuse of law or the legal process.

Involuntary servitude includes a condition of servitude induced by means of-

(1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or

(2) The abuse or threatened abuse of the legal process.

Recruitment fees means fees of any type, including charges, costs, assessments, or other financial obligations, that are associated with the recruiting process, regardless of the time, manner, or location of imposition or collection of the fee.

(1) Recruitment fees include, but are not limited to, the following fees (when they are associated with the recruiting process) for-

(i) Soliciting, identifying, considering, interviewing, referring, retaining, transferring, selecting, training, providing orientation to, skills testing, recommending, or placing employees or potential employees;

(ii) Advertising;

(iii) Obtaining permanent or temporary labor certification, including any associated fees;

(iv) Processing applications and petitions;

(v) Acquiring visas, including any associated fees;

(vi) Acquiring photographs and identity or immigration documents, such as passports, including any associated fees;

(vii) Accessing the job opportunity, including required medical examinations and immunizations; background, reference, and security clearance checks and examinations; and additional certifications;

(viii) An employer's recruiters, agents or attorneys, or other notary or legal fees;

(ix) Language interpretation or translation, arranging for or accompanying on travel, or providing other advice to employees or potential employees;

(x) Government-mandated fees, such as border crossing fees, levies, or worker welfare funds;

(xi) Transportation and subsistence costs-

(A) While in transit, including, but not limited to, airfare or costs of other modes of transportation, terminal fees, and travel taxes associated with travel from the country of origin to the country of performance and the return journey upon the end of employment; and

(B) From the airport or disembarkation point to the worksite;

(xii) Security deposits, bonds, and insurance; and

(xiii) Equipment charges.

(2) A recruitment fee, as described in the introductory text of this definition, is a recruitment fee, regardless of whether the payment is-

(i) Paid in property or money;

(ii) Deducted from wages;

(iii) Paid back in wage or benefit concessions;

(iv) Paid back as a kickback, bribe, in-kind payment, free labor, tip, or tribute; or

(v) Collected by an employer or a third party, whether licensed or unlicensed, including, but not limited to-

(A) Agents;

(B) Labor brokers;

(C) Recruiters;

(D) Staffing firms (including private employment and placement firms);

(E) Subsidiaries/affiliates of the employer;

(F) Any agent or employee of such entities; and

(G) Subcontractors at all tiers.

Severe forms of trafficking in persons means-

(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

Subcontract means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

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

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

(b) *Policy*. The United States Government has adopted a policy prohibiting trafficking in persons including the trafficking-related activities of this clause. Contractors, contractor employees, and their agents shall not-

(1) Engage in severe forms of trafficking in persons during the period of performance of the contract;

(2) Procure commercial sex acts during the period of performance of the contract;

(3) Use forced labor in the performance of the contract;

(4) Destroy, conceal, confiscate, or otherwise deny access by an employee to the employee's identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;

(5)(i) Use misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and language understood by the employee or potential employee, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant costs to be charged to the employee or potential employee, and, if applicable, the hazardous nature of the work;

(ii) Use recruiters that do not comply with local labor laws of the country in which the recruiting takes place;

(6) Charge employees or potential employees recruitment fees;

(7)(i) Fail to provide return transportation or pay for the cost of return transportation upon the end of employment-

(A) For an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract (for portions of contracts performed outside the United States); or

(B) For an employee who is not a United States national and who was brought into the United States for the purpose of working on a U.S. Government contract or subcontract, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the employee (for portions of contracts performed inside the United States); except that-

(ii) The requirements of paragraphs (b)(7)(i) of this clause shall not apply to an employee who is-

(A) Legally permitted to remain in the country of employment and who chooses to do so; or

(B) Exempted by an authorized official of the contracting agency from the requirement to provide return transportation or pay for the cost of return transportation;

(iii) The requirements of paragraph (b)(7)(i) of this clause are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an enforcement action related to trafficking in persons. The contractor shall provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor shall not only offer return transportation to a witness at a time when the witness is still

needed to testify. This paragraph does not apply when the exemptions at paragraph (b)(7)(ii) of this clause apply.

(8) Provide or arrange housing that fails to meet the host country housing and safety standards; or

(9) If required by law or contract, fail to provide an employment contract, recruitment agreement, or other required work document in writing. Such written work document shall be in a language the employee understands. If the employee must relocate to perform the work, the work document shall be provided to the employee at least five days prior to the employee relocating. The employee's work document shall include, but is not limited to, details about work description, wages, prohibition on charging recruitment fees, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons.

(c) *Contractor requirements*. The Contractor shall-

(1) Notify its employees and agents of-

(i)(A) The United States Government's policy prohibiting trafficking in persons described in paragraph (b) of this clause; and

(B) The following directive(s) or notice(s) applicable to employees performing work at the contract place(s) of performance as indicated below:

Document Title	**Document may be obtained from:**	**Applies to performance in/at:**
_____	_____	_____
_____	_____	_____

[Contracting Officer shall insert title of directive/notice; indicate the document is attached or provide source (such as website link) for obtaining document; and, indicate the contract performance location outside the United States to which the document applies.]

(ii) The actions that will be taken against employees or agents for violations of this policy. Such actions for employees may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees, agents, or subcontractors that violate the policy in paragraph (b) of this clause.

(d) *Notification*. (1) The Contractor shall inform the Contracting Officer and the agency Inspector General immediately of-

(i) Any credible information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates the policy in paragraph (b) of this clause (see also 18 U.S.C. 1351, Fraud in Foreign Labor Contracting, and 52.203-13(b)(3)(i)(A), if that clause is included in the solicitation or contract, which requires disclosure to the agency Office of the Inspector General when the Contractor has credible evidence of fraud); and

(ii) Any actions taken against a Contractor employee, subcontractor, subcontractor employee, or their agent pursuant to this clause.

(2) If the allegation may be associated with more than one contract, the Contractor shall inform the contracting officer for the contract with the highest dollar value.

(e) *Remedies*. In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), (g), (h), or (i) of this clause may result in-

(1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;

(2) Requiring the Contractor to terminate a subcontract;

(3) Suspension of contract payments until the Contractor has taken appropriate remedial action;

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;

(5) Declining to exercise available options under the contract;

(6) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or

(7) Suspension or debarment.

(f) *Mitigating and aggravating factors*. When determining remedies, the Contracting Officer may consider the following:

(1) *Mitigating factors*. The Contractor had a Trafficking in Persons compliance plan or an awareness program at the time of the violation, was in compliance with the plan, and has taken appropriate remedial actions for the violation, that may include reparation to victims for such violations.

(2) *Aggravating factors*. The Contractor failed to abate an alleged violation or enforce the requirements of a compliance plan, when directed by the Contracting Officer to do so.

(g) *Full cooperation*. (1) The Contractor shall, at a minimum-

(i) Disclose to the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct;

(ii) Provide timely and complete responses to Government auditors' and investigators' requests for documents;

(iii) Cooperate fully in providing reasonable access to its facilities and staff (both inside and outside the U.S.) to allow contracting agencies and other responsible Federal agencies to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. chapter 78), E.O. 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and

(iv) Protect all employees suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the employee

was recruited, and shall not prevent or hinder the ability of these employees from cooperating fully with Government authorities.

(2) The requirement for full cooperation does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not-

(i) Require the Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine;

(ii) Require any officer, director, owner, employee, or agent of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; or

(iii) Restrict the Contractor from-

(A) Conducting an internal investigation; or

(B) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

(h) *Compliance plan*. (1) This paragraph (h) applies to any portion of the contract that-

(i) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and

(ii) Has an estimated value that exceeds $550,000.

(2) The Contractor shall maintain a compliance plan during the performance of the contract that is appropriate-

(i) To the size and complexity of the contract; and

(ii) To the nature and scope of the activities to be performed for the Government, including the number of non-United States citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons.

(3) *Minimum requirements*. The compliance plan must include, at a minimum, the following:

(i) An awareness program to inform contractor employees about the Government's policy prohibiting trafficking-related activities described in paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against the employee for violations. Additional information about Trafficking in Persons and examples of awareness programs can be found at the Web site for the Department of State's Office to Monitor and Combat Trafficking in Persons at *http://www.state.gov/j/tip/*.

(ii) A process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Human Trafficking Hotline at 1-844-888-FREE and its email address at *help@befree.org*.

(iii) A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the

employee or potential employee, and ensures that wages meet applicable host-country legal requirements or explains any variance.

(iv) A housing plan, if the Contractor or subcontractor intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards.

(v) Procedures to prevent agents and subcontractors at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in such activities.

(4) *Posting*. (i) The Contractor shall post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Contractor's Web site (if one is maintained). If posting at the workplace or on the Web site is impracticable, the Contractor shall provide the relevant contents of the compliance plan to each worker in writing.

(ii) The Contractor shall provide the compliance plan to the Contracting Officer upon request.

(5) *Certification*. Annually after receiving an award, the Contractor shall submit a certification to the Contracting Officer that-

(i) It has implemented a compliance plan to prevent any prohibited activities identified at paragraph (b) of this clause and to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities; and

(ii) After having conducted due diligence, either-

(A) To the best of the Contractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents is engaged in any such activities; or

(B) If abuses relating to any of the prohibited activities identified in paragraph (b) of this clause have been found, the Contractor or subcontractor has taken the appropriate remedial and referral actions.

(i) *Subcontracts*. (1) The Contractor shall include the substance of this clause, including this paragraph (i), in all subcontracts and in all contracts with agents. The requirements in paragraph (h) of this clause apply only to any portion of the subcontract that-

(i) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and

(ii) Has an estimated value that exceeds $550,000.

(2) If any subcontractor is required by this clause to submit a certification, the Contractor shall require submission prior to the award of the subcontract and annually thereafter. The certification shall cover the items in paragraph (h)(5) of this clause.

(End of clause)

52.222-62 Paid Sick Leave Under Executive Order 13706. (JAN 2022)

52.223-3 Hazardous Material Identification and Material Safety Data. (FEB 2021) - Alternate I (JUL 1995)

52.223-6 Drug-Free Workplace. (MAY 2001)

52.223-15 Energy Efficiency in Energy-Consuming Products. (MAY 2020)

52.223-18 Encouraging Contractor Policies To Ban Text Messaging While Driving. (JUN 2020)

52.225-9 Buy American - Construction Materials. (OCT 2022)

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

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

(i) A commercial product (as defined in paragraph (1) of the definition of "commercial product" at Federal Acquisition Regulation (FAR) 2.101);

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

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

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

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

Cost of components means-

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

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

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

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

Domestic construction material means-

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

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

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

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

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

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

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

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

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

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

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

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

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

COTS item, except that for construction material that consists wholly or predominantly of iron or steel or a combination of both, the domestic content test is applied only to the iron and steel content of the construction materials, excluding COTS fasteners. (See FAR 12.505(a)(2)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

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

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

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

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

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

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

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

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

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

(*2*) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest foreign offer of

construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer, and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(3)(i)(B)(*1*) of this clause.

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

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

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

(c) *Request for determination of inapplicability of the Buy American statute*. (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including-

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

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

Foreign and Domestic Construction Materials Price Comparison

Construction material description	**Unit of measure**	**Quantity**	**Price (dollars)***
Item 1:			
Foreign construction material.	_____	_____	_____
Domestic construction material.	_____	_____	_____
Item 2:			
Foreign construction material.	_____	_____	_____
Domestic construction material.	_____	_____	_____

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

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

[Include other applicable supporting information.]

(End of clause)

52.225-9 Buy American - Construction Materials. (OCT 2022) - Alternate I (OCT 2022)

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

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

(i) A commercial product (as defined in paragraph (1) of the definition of "commercial product" at Federal Acquisition Regulation (FAR) 2.101);

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

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

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

Construction material means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency

life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means-

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

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

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

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

Domestic construction material means-

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

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

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

(A) The cost of its components mined, produced, or manufactured in the United States exceeds [ ] percent of the cost of all its components. [*Contracting officer to insert the percentage.*]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(*2*) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that is manufactured in the United States and does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that exceeds 55 percent domestic

content as a domestic offer and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(3)(i)(A)(*1*) of this clause.

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

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

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

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

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

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

(c) *Request for determination of inapplicability of the Buy American statute*. (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including-

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

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

Foreign and Domestic Construction Materials Price Comparison

Construction material description	**Unit of measure**	**Quantity**	**Price (dollars)***
Item 1:			
Foreign construction material.	_____	_____	_____
Domestic construction material.	_____	_____	_____
Item 2:			
Foreign construction material.	_____	_____	_____
Domestic construction material.	_____	_____	_____

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

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

[Include other applicable supporting information.]

(End of clause)

52.225-11 Buy American - Construction Materials Under Trade Agreements. (NOV 2023)

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

Caribbean Basin country construction material means a construction material that-

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

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

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

(i) A commercial product (as defined in paragraph (1) of the definition of "commercial product" at Federal Acquisition Regulation (FAR) 2.101;

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

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

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

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

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

Cost of components means-

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

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

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

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

Designated country means any of the following countries:

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

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

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

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

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

Domestic construction material means-

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

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

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

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

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

(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of foreign iron and steel constitutes less than 5 percent of the cost of all components used

in such construction material. The cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the construction material and a good faith estimate of the cost of all foreign iron or steel components excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of "cost of components".

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

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

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

Free Trade Agreement country construction material means a construction material that-

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

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

Least developed country construction material means a construction material that-

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

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

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

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

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

WTO GPA country construction material means a construction material that-

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

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a

new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials.* (1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the domestic content test of the Buy American statute is waived for construction material that is a COTS item, except that for construction material that consists wholly or predominantly of iron or steel or a combination of both, the domestic content test is applied only to the iron and steel content of the construction material, excluding COTS fasteners. (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

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

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

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

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

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

(A) *For domestic construction material that is not a critical item or does not contain critical components*. (*1*) The cost of a particular domestic construction material subject to the restrictions of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;

(*2*) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(A)(*1*) of this clause.

(*3*) The procedures in paragraph (b)(4)(i)(A)(*2*) of this clause will no longer apply as of January 1, 2030.

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

(*2*) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer, and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(B)(*1*) of this clause.

(*3*) The procedures in paragraph (b)(4)(i)(B)(*2*) of this clause will no longer apply as of January 1, 2030.

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

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

(c) *Request for determination of inapplicability of the Buy American statute*. (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including-

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

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

Foreign and Domestic Construction Materials Price Comparison

Construction Material Description	**Unit of Measure**	**Quantity**	**Price (Dollars)***
Item 1:			
Foreign construction material.	_____	_____	_____
Domestic construction material.	_____	_____	_____
Item 2:			
Foreign construction material.	_____	_____	_____
Domestic construction material.	_____	_____	_____

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

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

[Include other applicable supporting information.]

(End of clause)

52.225-11 Buy American - Construction Materials Under Trade Agreements. (NOV 2023) - Alternate I (NOV 2023)

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

Bahraini, Mexican, or Omani construction material means a construction material that-

(1) Is wholly the growth, product, or manufacture of Bahrain, Mexico, or Oman; or

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

Caribbean Basin country construction material means a construction material that-

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

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

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

(i) A commercial product (as defined in paragraph (1) of the definition of "commercial product" at Federal Acquisition Regulation (FAR) 2.101;

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

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

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

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

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

Cost of components means-

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

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

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

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

Designated country means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong

Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, North Macedonia, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or United Kingdom);

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

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

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

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

Domestic construction material means-

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

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

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

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

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

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

such construction material is calculated in accordance with the definition of "cost of components".

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

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

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

Free Trade Agreement country construction material means a construction material that-

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

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

Least developed country construction material means a construction material that-

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

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

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

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

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

WTO GPA country construction material means a construction material that-

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

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

(b) *Construction materials.* (1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the domestic content test of the Buy American statute is waived for construction material that is a COTS item, except that for construction material that consists wholly or predominantly of iron or

steel or a combination of both, the domestic content test is applied only to the iron and steel content of the construction material, excluding COTS fasteners. (See 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and all the Free Trade Agreements except the Bahrain FTA, United States-Mexico-Canada Agreement, and the Oman FTA apply to this acquisition. Therefore, the Buy American statute restrictions are waived for designated country construction materials other than Bahraini, Mexican, or Omani construction materials.

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

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

[all foreign construction material excepted from the requirements of the Buy American statute, unless the excepted foreign construction material is from a designated country other than Bahrain, Mexico, and Oman]

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

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

(A) *For domestic construction material that is not a critical item or does not contain critical components*. (*1*) The cost of a particular domestic construction material subject to the restrictions of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;

(*2*) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(A)(*1*) of this clause.

(*3*) The procedures in paragraph (b)(4)(i)(A)(*2*) of this clause will no longer apply as of January 1, 2030.

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

(*2*) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both, if the

cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer, and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(B)(*1*) of this clause.

(*3*) The procedures in paragraph (b)(4)(i)(B)(*2*) of this clause will no longer apply as of January 1, 2030.

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

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

(c) *Request for determination of inapplicability of the Buy American statute*. (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including-

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

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

Foreign and Domestic Construction Materials Price Comparison

Construction Material Description	**Unit of Measure**	**Quantity**	**Price (Dollars)***
Item 1:			
Foreign construction material.	_____	_____	_____
Domestic construction material.	_____	_____	_____
Item 2:			
Foreign construction material.	_____	_____	_____
Domestic construction material.	_____	_____	_____

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

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

[Include other applicable supporting information.]

(End of clause)

52.225-12 52.225-12 Notice of Buy American Requirement-Construction Materials Under Trade Agreements. (May 2014) Alternate II (Nov 2023)

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

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

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

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

(d) Alternate offers. (1) When an offer includes foreign construction material, except foreign construction material from a designated country other than Bahrain, Mexico, or Oman that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-11, the offeror also may submit an alternate offer based on use of equivalent domestic or designated country construction material other than Bahraini, Mexican, or Omani construction material.

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

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material other than Bahraini, Mexican, or Omani construction material. An offer based on use of the foreign construction material for which an exception was requested-

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

(ii) May be accepted if revised during negotiations.

(End of Provision)

52.226-8 Encouraging Contractor Policies To Ban Text Messaging While Driving. (MAY 2024)

52.232-5 Payments Under Fixed-Price Construction Contracts. (MAY 2014)

52.232-27 Prompt Payment for Construction Contracts. (JAN 2017)

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. (AUG 1996) - Alternate I (JUN 1985)

52.233-4 Applicable Law for Breach of Contract Claim. (OCT 2004)

52.236-5 Material and Workmanship. (APR 1984)

52.236-7 Permits and Responsibilities. (NOV 1991)

52.244-6 Subcontracts for Commercial Products and Commercial Services. (JAN 2025)

52.250-S0073 Indemnification (January 2023)

(a) Contractor shall be responsible for all damage and expense to person(s) or property caused by its negligent acts and those of its subcontractors, agents or employees, in connection with the work and services performed under this contract. Contractor shall indemnify, hold harmless and defend the Smithsonian Institution, its museums, bureaus, its Regents, officers, agents, employees and the U.S. Government from and against all claims, and liability (including judgments, settlements, statutory liability under Workers Compensation laws), and expenses (including attorneys fees) for any damages, expenses, acts and/or omissions of the Contractor, its agents, subcontractors or employees, related directly or indirectly to any aspect of this contract or performance of work hereunder, including claims and liability for injury to or death of any third party or of Contractor's, agents, subcontractors or employees.

(b) Contractor shall be liable for all damages, costs and expense incurred by the Smithsonian Institution in the construction of the Project(s) including, but not limited to, damages, costs and expenses resulting from claims brought against the Smithsonian Institution by the construction contractor(s) caused by the failure of Contractor to perform the work and services under this contract with the same degree of standard of care and skill normally expected of and provided by consultants in the performance of the same or similar work and services to be provided under this contract.

(c) Acceptance of the work and services by the Smithsonian shall not waive any of the rights of the Smithsonian or release the Contractor from any liability, responsibility or duty contained herein.

52.227-4 Patent Indemnity--Construction Contracts. (DEC 2007)

52.228-2 Additional Bond Security. (OCT 1997)

52.228-5 Insurance - Work on a Government Installation. (JAN 1997)

52.228-11 Individual Surety-Pledge of Assets. (FEB 2021)

52.228-15 Performance and Payment Bonds - Construction. (JUN 2020)

52.232-5 Payments Under Fixed-Price Construction Contracts. (MAY 2014)

52.232-18 Availability of Funds. (APR 1984)

52.232-23 Assignment of Claims. (MAY 2014)

52.232-27 Prompt Payment for Construction Contracts. (JAN 2017)

52.232-33 Payment by Electronic Funds Transfer - System for Award Management. (OCT 2018)

52.232-39 Unenforceability of Unauthorized Obligations. (JUN 2013)

52.232-40 Providing Accelerated Payments to Small Business Subcontractors. (MAR 2023)

52.233-4 Applicable Law for Breach of Contract Claim. (OCT 2004)

52.236-2 Differing Site Conditions. (APR 1984)

52.236-3 Site Investigation and Conditions Affecting the Work. (APR 1984)

52.236-5 Material and Workmanship. (APR 1984)

52.236-6 Superintendence by the Contractor. (APR 1984)

52.236-7 Permits and Responsibilities. (NOV 1991)

52.236-8 Other Contracts. (APR 1984)

52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements. (APR 1984)

52.236-10 Operations and Storage Areas. (APR 1984)

52.236-11 Use and Possession Prior to Completion. (APR 1984)

52.236-12 Cleaning Up. (APR 1984)

52.236-14 Availability and Use of Utility Services. (APR 1984)

52.236-15 Schedules for Construction Contracts. (APR 1984)

52.236-17 Layout of Work. (APR 1984)

52.236-26 Preconstruction Conference. (FEB 1995)

52.242-13 Bankruptcy. (JUL 1995)

52.242-14 Suspension of Work. (APR 1984)

52.243-4 Changes. (JUN 2007)

52.243-5 Changes and Changed Conditions. (APR 1984)

52.244-6 Subcontracts for Commercial Products and Commercial Services. (FEB 2024)

52.248-3 Value Engineering - Construction. (OCT 2020)

52.249-2 Termination for Convenience of the Government (Fixed-Price). (APR 2012) - Alternate I (SEP 1996)

52.249-10 Default (Fixed-Price Construction). (APR 1984) - Alternate I (APR 1984)

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): [Insert one or more Internet addresses]

(End of clause)

52.253-1 Computer Generated Forms. (JAN 1991)

52.202-S0003 Definitions (Apr 1988)

When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation or contract was issued, unless modified herein--

(a) "Head of the agency," means the Secretary of the Smithsonian Institution.

(b) "Contracting Officer" (C.O.) means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings and to settle all claims.

(c) "Government" means the Smithsonian Institution (S.I.). The Contracting Officer (C.O.) shall be deemed to be the authorized representative of the S.I. The Smithsonian Institution shall hereinafter be referred to by its initials, "S.I.", or as "the Government".

(d) "Contractor" means the person or persons, firm or company whose proposal has been accepted by S.I. and includes the Contractor's personal representatives, successors and assigns permitted by S.I.

(e) "Contracting Officer's Technical Representative" (COTR) means the Project Manager appointed by the Contracting Officer to act as COTR for the purpose of the Contract. Written notification of the appointment or recession of such appointment shall be promptly furnished to the Contractor.

52.202-S0012 Specialist (Jun 2000)

The term "Specialist" as used in the contract specification shall mean an individual or firm of established reputation (or, if newly organized, whose personnel have previously established a reputation in the same field), which is regularly engaged in, and which maintains a regular force of workmen skilled in either (as applicable) manufacturing or fabricating items required by the contract, installing items required by the Contract or otherwise performing work required by the Contract. Where the contract specification requires installation by a specialist, that term shall also be deemed to mean either the manufacturer of the item, an individual or firm licensed by the manufacturer, or an individual or firm who will perform the work under the manufacturer's direct supervision.

52.209-S0042 Subcontractor Eligibility (Jun 2000)

a) In connection with the performance of work under this contract, the Contractor shall not subcontract with any subcontractor who, at the time of subcontract award, is listed on the current Excluded Parties List, unless otherwise authorized by the Government in accordance with Subpart 9.4 of the Federal Acquisition Regulations.

(b) Prior to award of the prime contract, the Excluded Parties List will be available for inspection at the Business Service Center in the GSA regional office. After contract award, the Contractor may obtain a copy of the current list from the Contracting Officer.

(c) In the event of the Contractor's noncompliance with the foregoing requirements, the Government may terminate this contract for default or take other appropriate action, including, but not limited to, requiring the Contractor to terminate any such subcontract and substitute and eligible subcontractor in lieu thereof, at no increase in the contract price or time for performance.

(d) The term "subcontractor," as used in this clause, shall mean the individual or firm with whom the Contractor proposes to enter into a subcontract for manufacturing, fabricating, installing, or otherwise performing work under this contract.

(e) The Contractor shall include the provisions of paragraphs (a), (b), (d), and (e) of this clause in every subcontract hereunder.

52.215-S0001 Order of Precedence (January 2023)

In the event of an inconsistency between provisions of the Solicitation or the Contract, the inconsistency shall be resolved by giving precedence in the following order:

1. The Schedule.

2. Solicitation, Instructions, and Conditions.

3. Amendments to the Solicitation.

4. Contract Clauses.

5. Specifications.

6. The Drawings: large scale details, small-scale details, standard size plans, sections and elevation drawings.

7. Other Documents, Exhibits, and Attachments.

8. Other Provisions of the Solicitation, whether incorporated by reference or otherwise inferred by standard practice.

9. The Offeror's Proposal.

52.215-S0046 Right to Audit and Preservation of Records (Jun 2000)

(a) The Contractor shall maintain books, records and accounts of all costs in accordance with generally accepted accounting principles and practices. The S.I. or his authorized representatives shall have the right to audit the books, records and accounts of the Contractor under any of the following conditions:

(1) If the Contract is terminated for any reason in accordance with the provisions of these Contract Documents in order to arrive at equitable termination costs;

(2) In the event of a disagreement between the Contractor and the S.I. over the amount due the Contractor under the terms of this Contract;

(3) To check or substantiate any amounts invoiced or paid which are required to reflect the costs of the Contractor, or the Contractor's efficiency or effectiveness under this Contract or in connection with extras, changes, claims, additions, back-charges, or other, as may be provided for in this Contract; and/or

(4) If it becomes necessary to determine the S.I.'s rights and the Contractor's obligations under the Contract or to ascertain facts relative to any claim against the Contractor which may result in a charge against the S.I.,

(5) To determine any difference in cost occasioned by a substitution permitted under the Construction Contract Clause entitled "Subcontractors".

(b) These provisions for an audit shall give the S.I. or its designated representative unlimited, reasonable access during normal working hours to the Contractor's books and records under the conditions stated above. The S.I. has the right to obtain copies of any or all records at a reasonable cost.

(c) Unless otherwise provided by applicable statute, the Contractor, from the effective date of final payment or termination hereunder, shall preserve and make available to the S.I. for a period of three (3) years thereafter, at all reasonable times at the office of the Contractor, but without direct charge to the S.I., all its books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the Work hereunder.

(d) The S.I. will make all payments required of it under this Contract subject to audit, under circumstances stated above, which audit may be performed at the S.I.'s option, either during the Contract time period or during the above record retention time period. Regardless of authorization, approval or acceptance, signatures or letters which were given by the S.I. and are part of the S.I.'s control systems or are requested by the Contractor, the payments made under this Contract shall not constitute a waiver or the S.I.'s right to audit, nor shall payments constitute a waiver or agreement by the S.I. that it accepts as correct the billings, invoices or other charges on which the payments are based. If the S.I.'s audit produces a claim against the Contractor, the S.I. may pursue all its legal remedies even though it has made all or part of the payments required by this Contract.

(e) If any audit by the S.I. or its representative discloses an underpayment by the S.I. pursuant to the terms of the Contract Documents, the S.I. shall have the duty to pay any amounts found by the Audit to be owed to the Contractor. If such audit discloses an overpayment, the Contractor shall have the obligation to reimburse the S.I. for the amount of the overpayment. The S.I.'s right to claim reimbursement from the Contractor of any overpayment shall not be terminated or waived until 60 days after S.I. audit or upon the termination of audit rights under this Construction Contract Clause, whichever date is later. The obligation of the Contractor to make reimbursement hereunder shall not terminate except as provided by law.

(f) The S.I.'s right to audit and the preservation of records shall terminate at the end of three (3) years as stated hereinabove. The Contractor shall include this "Right to Audit and Preservation of Records" clause in all subcontracts issued by him and he shall require same to be inserted by all lower tier Subcontractors in their subcontracts, for any portion of the Work. Such audit may be conducted by the S.I. or its authorized representatives.

52.223-S0019 Asbestos-Containing Materials (Jun 2000)

(a) The Contractor shall immediately notify the COTR upon uncovering any material likely to contain or suspected of containing asbestos fibers. Upon such notification, the Smithsonian Institution Office of Environmental Management and Safety, Industrial Hygiene Branch, will conduct preliminary tests at no cost to the Contractor. Further disturbances of the material shall cease and the continuance of the work effort shall be subject to approval by the Smithsonian Institution.

(b) Asbestos-free materials shall be used whenever available. The Contractor shall specifically identify asbestos-containing material for any item prior to its use or installation under this contract by submitting a Material Safety Data Sheet for approval. The Smithsonian Institution reserves the right to disapprove and to disallow any item containing asbestos at no additional cost.

(c) All asbestos abatement work shall be in compliance with all applicable federal, state, and local regulations. Additionally, the Contractor shall comply with Smithsonian Institution's requirements for asbestos abatement work and handling asbestos-containing materials.

52.228-S0015 Contractor's Liability Insurance (Feb 2026)

(a) The Contractor shall purchase and maintain in companies properly licensed to do business in the location where construction is being performed under this contract and acceptable to the S.I. such insuranceas will protect him and the S.I. from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor,any Supplier, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts anyof them may be liable.

(1) Claims under worker's or workmen's compensation, disability benefit and other similar employee benefit acts (with Workmen's Compensation and Employer's Liability Insurance in amounts not less than those necessary to meet the statutory requirements of the state(s) having jurisdiction over any portion of theWork); the Contractor will require his Subcontractors to similarly provide Workmen's Compensation Insurance for all of the latter's employees;

(2) Claims for damages because of bodily injury, sickness or disease or death of his employees;

(3) Claims for damages because of bodily injury, sickness or death of any persons other than his employees;

(4) Claims for damages insured by usual personal injury liability coverage, which are sustained (1) by any person as a result of an occurrence directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;

(5) Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and

(6) Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

(b) The insurance required by this Construction Contract Clause entitled "Contractors Liability Insurance", shall be primary and noncontributing to any insurance possessed or procured by the S.I., and limits of liability shall be not less than those set forth in this Construction Clause entitled "Contractors Liability Insurance".

(c) The insurance required by this Construction Contract Clause entitled "Contractors Liability Insurance", shall include contractual liability insurance applicable to the Contractor's obligations under the Construction Contract Clause entitled "Conditions Affecting the Work".

(d) Without limiting the above during the term of the Contract, the Contractor shall, at his own expense, purchase and maintain the following insurance with companies licensed to do business in the location where construction is being performed under the contract and satisfactory to the S.I.

(e) Workmen's compensation insurance as required by the laws of the location where construction work is being performed.

(f) Appropriate bodily injury liability insurance, with limits of not less than $5,000,000.00 for each person and $5,000,000.00 for each accident, including requirements for protection of elevator operations, when applicable, and servicing areas adjacent to the building.

(g) Property damage liability insurance with a limit of not less than $5,000,000.00 for each accident.

(h) Automobile bodily injury liability insurance with limits of not less than $100,000.00 for each person and $100,000.00 for each accident, and property damage liability insurance, with a limit of not less than
$100,000.00 for each accident.

(i) Employers' Liability - At least $100,000.00 for each accident.

(j) Public Liability and Property Insurance - The Contractor shall take out and maintain during the life of this Contract such Public Liability and Property Damage Insurance as shall protect him and any Subcontractor performing work under this Contract from claims for damages for personal injury includingaccidental death, as well as from claims for personal property damage which may arise from operations under this Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by either of them. The Contractor shall procure insurance coverage for direct operations, sublet work, elevators, contractual liability and completed operations with limits not less than those stated below.

(k) Property Damages, including Broad Form Property Damage and Explosion, Collapse, Underground property damage coverage, and blasting, where necessary.

(l) Completed Operations Liability - Continues coverage in force for one year after completion of Work.

(m) Excess/umbrella policy - raising the above limits to $5 million.

(n) Liability insurance may be arranged by Comprehensive General Liability and Comprehensive Automobile Liability policies for the full limits required; Comprehensive General Liability Insurance maybe arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an excess of umbrella liability policy.

(o) It is understood and agreed that the Contractor's Insurance Company shall notify in writing, the Director, Office of Contracting, Smithsonian Institution, Washington, D.C. 20024, thirty (30) days inadvance of the effective date of any reduction in or cancellation of this policy.

(p) Contractor shall provide the Smithsonian Certificate(s) of Insurance evidencing the required coverage ten (10) days following the date of notice of contract award. Contractor also agrees that it will provide copies of the policies to the Smithsonian, if requested. The insurance companies providing the above coverage shall be satisfactory to the Smithsonian Institution. Notice of policy changes will be furnished tothe Contracting Officer.

(q) Contractor shall maintain the insurance policies described in the following covering all the activities under the contract (If policies are on a "claims made" basis, the Contractor warrants that she/she will not discontinue coverage for at least three years after the completion of activities pertaining to this contract). The Contractor may use a combination of policies to achieve the minimum limits and coverage specified. Contractor shall disclose to the Smithsonian the full limits of all liability insurance policies including umbrella and/or excess liability policies **and any deductible or self-insured retention.** Contractor shall provide the Smithsonian the required Certificate(s) of Insurance evidencing the required coverages prior to the commencement of work under this contract. Contractor also agrees that he/she will provide copies of the policies to the Smithsonian, and that he/she will notify the Smithsonian thirty days in advance of any material change to the coverage or limits of insurance required by this provision.

(r) **Evidence of Insurance**

The Contractor shall name the Smithsonian Institution and the United States of America as Additional Insureds on the Contractor's Commercial General Liability ("CGL") policy by specific endorsement, using an endorsement form acceptable to the Smithsonian.

Such Additional Insured status shall apply to all liabilities, claims, damages, losses, costs, and expenses arising out of or resulting from the acts, errors, omissions, or operations of the Contractor, its subcontractors of any tier, agents, or anyone directly or indirectly employed or engaged by them in connection with this Agreement.

The required liability policies shall provide for cross liability coverage. **Contractor shall provide the Smithsonian with evidence of meeting this Additional Insured requirement prior to Contractor or sub-contractor's commencement of activities under this agreement.**

(s) **Insurance for Contractor's Sub-Contractors**

Contractor will be responsible to ensure that its sub-contractors are adequately insured by a Commercial General Liability policy of either the Contractor or its sub-contractor including personal and bodily injury as described above, as well as Worker's Compensation insurance afforded in the jurisdiction where the work is performed. In addition, Contractor will be responsible for determining per occurrence limits and other necessary coverage, depending on the scope of the activity. Contractor will ensure that its sub-contractors provide Certificates of Insurance and evidence of Additional Insured coverage in accordance with Section I above.

(t) **Indemnification**

Contractor shall indemnify, hold harmless, and defend the Smithsonian and its museums, bureaus, the Regents, Officers, agents, employees, and the U.S. Government from and against any and all claims, liability, including judgments, and settlements expenses, including attorneys' fees, for any damage, expense, act or omission of the Contractor or its representatives, agents, employees or servants, and related directly or indirectly to any aspect of this agreement or performance of work hereunder, including injury to, or death of, any of the Contractor's employees, agents or third party. Contractor shall also indemnify the Smithsonian for any loss or damage to Smithsonian property, including exhibits, display cases, collection items, objects and artifacts caused by any negligence, action, inaction, or misconduct of the Contractor, its employees, agents, or a third party.

52.228-S0017 Insurance (Sep 2021)

The requirements of the Insurance - Work on a Government Installation clause prescribed in FAR 52.228-5, Clause 52.228-S0015, SI Contractor's Liability Insurance, and Clause 52.228-S0016, SI Contractor's Property Insurance, are supplemented to provide that the general liability and property insurance policies shall name "the Smithsonian Institution," as an additional insured with respect to operations performed under this contract.

52.228-S0074 Specific Insurance Requirements (March 2023)

(a) Contractor shall maintain the insurance policies set forth below, covering the term of the contract, with carriers that are acceptable to the Smithsonian Institution. If policies are on a "claims made" basis, Contractor must continue coverage for at least three (3) years after

it completes all activities related to this contract. Contractor shall provide Smithsonian Institution with a Certificate of Insurance evidencing the required coverages, at least fourteen (14) days prior to commencement of performance of this contract. Contractor

agrees that it shall notify the Smithsonian Institution, in writing, at least thirty (30) days in advance of any material change to the scope or limits of insurance required by this provision. Contractor shall disclose to Smithsonian the full limits of all insurance policies on the required

certificates of insurance, including any umbrella and/or excess liability policies.

(b) Contractor shall name the Smithsonian Institution and the United States of America as ADDITIONAL INSUREDS to the Commercial General Liability and Automobile Liability policies.

c) Commercial General Liability: Contractor shall maintain Commercial General Liability or comparable broad form liability coverage including standard (ISO Form) coverage for 1)bodily injury, property damage, products and completed operations and contractual liability; and 2) advertising injury and personal injury pertaining to all activities performed by Contractor as part of this contract. Minimum Per Occurrence Limit: $5,000,000.00 (two million dollars).

(d) Professional Liability Insurance coverage to include coverage for errors and omissions of the Contractor, its subcontractor(s), agents and employees. Minimum Per Claim Limit: $2,000,000.00 (two million dollars).

(e) Automobile Liability: Contractor shall maintain Business Automobile liability coverage including standard (ISO Form) coverage for 1) bodily injury, 2) property damage. Minimum Per Occurrence Limit: $1,000,000.00 (one million dollars).

(f) Worker's Compensation: Contractor shall maintain Worker's Compensation coverage which meets statutory limits of the jurisdiction where the work will be performed.

(g) Subcontractor(s): Contractor shall require its subcontractor(s) that perform work under this contract to carry the same insurance limits Contractor must carry under this contract, and to provide a Certificate of

Insurance naming the Smithsonian Institution and United States of America as ADDITIONAL INSUREDS.

(h) Contractor shall maintain umbrella liability in the amount of $5,000,000.00 (five million dollars). Contractor may meet the insurance requirements through separate, combination, or package policies if those policies meet the required limits and scope of coverage.

Umbrella and/or excess policy limits may be accepted to meet the required limits and scope of insurance.

(i) The insurance requirements provided herein are the Contractor's minimum requirements and shall not be considered indicative of the ultimate amounts and types of insurance needed by the Contractor. Neither failure to comply nor full compliance with the insurance provisions of this Contract shall limit or relieve the Contractor from the requirement to indemnify the Smithsonian Institution nor from other obligations under this contract.

(j) Insurance for Contractor's Sub-Contractors

Contractor will be responsible to ensure that its sub-contractors are adequately insured by a Commercial General Liability policy of either the Contractor or it's sub-contractor including personal and bodily injury as described above, as well as Worker's Compensation insurance afforded in the jurisdiction where the work is performed. In addition, Contractor will be responsible for determining per occurrence limits and other necessary coverage, depending on the scope of the activity. Contractor will ensure that its sub-contractors provide Certificates of Insurance and evidence of Additional Insured coverage in accordance with Section I above.

(k) Federal Tort Claims Act: Contractor is hereby on notice that the Smithsonian Institution falls within the purview of the Federal Tort Claims Act (28 U.S.C. 2671-2680). As such, the exclusive remedy for claims against Smithsonian for bodily injury, death, and property damage due to negligence of Smithsonian or its employees is in the Federal Tort claims Act; the General Counsel of Smithsonian is authorized to settle all claims against the United States (Smithsonian Institution) for damage to property, personal injury, or death caused by the negligent act or failure to act of a Smithsonian employee in the course of his/her employment cognizable under the Federal Tort Claims Act, as amended; and in some instances, this may be the exclusive remedy**.**

(l) Rigging: Contractor shall maintain Commercial General Liability, including care, custody, and control coverage for (1) bodily injury; broad form property damage; and (2) personal injury pertaining to all activities performed by Contractor as part of this agreement. This coverage is also to include coverage for boon or overload and for cargo that is on hook and in their care, custody, and control.

Minimum Per Occurrence Limit:

Contractor can obtain coverage through an Inland Marine policy that provides protection for the items that they will be doing rigging on. This coverage should include coverage for the cargo that is on-hook and in their care, custody, and control.

The preferred method to ensure this coverage is through the Commercial General Liability policy as the property damage coverage under this policy includes loss of use of the item.

If the Commercial General Liability policy deletes the exclusion for care, custody and control and the exclusion for "that particular part of real property on which you or any contractors or subcontractor working directly or indirectly on your behalf are performing operation, if the property damages arises out of those operations."

52.229-S0043 Taxes (Jun 2000)

The Contractor shall pay all applicable Federal, State and local taxes and duties for the Work or portions thereof provided by the Contractor which are legally enacted at the time the offers are received, whether or not effective, except to the extent that the Contractor obtains tax exempt certificates in Maryland, Virginia and the District of Columbia. The Smithsonian Institution will cooperate with the Contractor in his application for such tax exempt certificates.

52.232-S0005 Interest on Payments (January 2023)

The Prompt Payment Act (31 U.S.C. Section 3901), is not applicable to the Smithsonian Institution. The Smithsonian Institution shall take all reasonable measures to ensure that payment for invoice(s) properly documented and submitted shall be paid within 30 days from receipt of an approved proper invoice(s) by the COTR.

52.232-S0047 Application for Payment for Construction (August 2024)

The provisions of the Clause entitled "Payment Under Fixed-Price Construction Contracts" prescribed in FAR 52.232-5 are modified as follows:

(a) SCHEDULE OF VALUES:

(1) As part of the submission of its Preliminary Schedule, the Contractor shall submit to the COTR a Schedule of Values, allocated to the various portions of the Work including mobilization and demobilization. This schedule, supported by data from the approved Progress Schedule, shall be used as a basis for the Contractor's Applications for Payment for any increase or decrease in the Contract price. The Contractor shall not front-end load his Schedule of Values.

(b) APPLICATIONS FOR PAYMENT:

(1) The S.I. shall make progress payments monthly as the Work proceeds on Applications for Payment approved by the Contracting Officer.

(2) The S.I. shall, upon request, reimburse the Contractor for the entire amount of premiums paid for Performance and Payment bonds (including coinsurance and reinsurance agreements, when applicable) after furnishing evidence of full payment to the surety.

(3) Prior to the date for each progress payment , the Contractor, in accordance with the Supplementary Construction Contract Clause entitled "Scheduling of the Work", shall submit to the COTR an itemized Application for Payment, supported by such data substantiating the Contractor's right to payment as the COTR may require, including, but not limited to the Contractor's certification that all work for which payment is requested has been completed in full in accordance with the Contract Documents, and reflecting retainage, if any, as provided elsewhere in the Contract Documents. The Contractor shall also certify that he has paid all due and payable amounts for which previous Certificates for Payment were issued and payments received from the S.I.

(4) The S.I. will retain ten percent of the amount of all progress payments until the Work is finally completed and accepted, whether or not the S.I. has occupied any or all of the Project before such time. After fifty percent of the Work has been completed, the Contractor may request the C.O. to retain five percent of the amount of all progress payments for the Work performed beyond the fifty percent stage of completion. The decision by the C.O. concerning reduction of retention shall be final and binding upon the Contractor.

(5) Payments may be made by the S.I. at its discretion, on account of materials or equipment not incorporated in the Work, but delivered and suitably stored at the site by the Contractor. Payments for materials or equipment stored on the site shall only be considered upon submission by the Contractor of satisfactory evidence (for example, releases or paid invoices from the Seller) that he has acquired title to such material, that it will be utilized on the Work under this Contract and that it is satisfactorily stored, protected, and insured or that other procedures satisfactory to the S.I. that will protect the S.I.'s interests

have been taken. Materials once paid for by the S.I. become the property of the S.I. and may not be removed from the work site without the S.I.'s written permission.

(6) S.I. will be under no obligation to make payment to the Contractor on account of materials or equipment not incorporated in the Work, but delivered and stored at the site unless the Contractor, in his Schedule of Values, includes line items for such delivered and stored materials or equipment.

(7) It is specifically understood and agreed that an inspection and approval of the materials by the COTR or any agency retained by him shall not in any way subject the S.I. to pay for the said materials or any portion thereof, even though incorporated in the Work, if said materials shall in fact turn out to be unfit to be used in the Work, nor shall such inspection be considered as any waiver of objection to the Work on account of the unsoundness or imperfection of the material used.

(8) Unless otherwise provided for elsewhere in the Contract Documents, no payments will be made for any materials or equipment stored off or away from the Site without the prior consent of the COTR.

(9) The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the S.I. either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Construction Contract Clause as "liens"; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

(10) CONTROL OF COSTS AND PROPERTY. The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(c) CERTIFICATES OF PAYMENT.

(1) The C.O. will within 5 days after receipt of the Contractor's Application for Payment, either approve the Application for Payment for such amount as the C.O. determines is properly due, or notify the Contractor in writing of his reasons for not approving the Application for Payment as provided in this Construction Contract Clause under "Payments Withheld".

(2) The submission and approval of the Progress Schedule and monthly updates thereof as required by the Supplementary Construction Contract Clause entitled "Scheduling of the Work" shall be an integral part and basic element of the application upon which progress payment shall be made. The Contractor shall be entitled to progress payments only as determined from the currently Approved and Updated Progress Schedule.

(d) PAYMENTS WITHHELD.

(1) The C.O. may decline to approve the Application for Payment or reduce payment or because of subsequently discovered evidence or subsequent observations, he may nullify the whole or any part of any Application for Payment previously approved to such extent as may be necessary in his opinion to protect the S.I. from loss, because of:

(i) Defective work not remedied,

(ii) Third party claims filed, whether in court, in arbitration or otherwise, or reasonable evidence indicating probable filing of such claims,

(iii) Failure of the Contractor to make payments properly to Subcontractors or Suppliers,

(iv) Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price,

(v) Damage to the S.I. or to a separate contractor,

(vi) Reasonable evidence that the Work will not be completed within the Contract Time, or within any Contract Milestones as established in the Contract Documents,

(vii) Failure or refusal of the Contractor to carry out the Work in accordance with or to otherwise substantially or materially comply with the Contract Documents,

(viii) Liens filed or reasonable evidence that a lien may be filed for any portion of the Work, or

(ix) Failure or refusal of the Contractor to properly schedule and coordinate the Work, to provide Progress Schedules, reports and updates, or to otherwise fully comply with the Supplementary Construction Contract Clause entitled "Scheduling of the Work".

(x) Failure or refusal of the Contractor to fully comply with the provisions of the Construction Contract Clause entitled "Work by Smithsonian Institution or by Separate Contractors", requiring the Contractor to direct certain claims to separate contractors and to defend and indemnify the S.I. in the event separate contractors file claims.

(xi) Failure or refusal of the Contractor to fully comply with the provisions of the Construction Contract Clause entitled "Shop Drawings, Coordination Drawings and Schedules".

(xii) Failure or refusal of the Contractor to fully comply with the provisions of the Supplementary Construction Contract Clause entitled "Submittal Schedule".

When the above grounds in this Construction Contract Clause are removed, payment shall be made for amounts withheld because of them.

(e) SUBSTANTIAL COMPLETION.

(1) When the Contractor considers that the Work, or a designated portion thereof which is acceptable to the S.I., is substantially complete as defined in the Construction Contract Clause entitled "Commencement, Prosecution, and Completion of Work", the Contractor shall prepare for submission to the COTR a list of items which in his opinion are to be completed or corrected and shall, request in writing that the COTR perform a Substantial Completion inspection. The COTR shall review the Contractor's list and will compile a punch list of items to be corrected and completed. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the COTR on the basis of an inspection determines that the Work or designated portion thereof is substantially complete, he will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion; shall state the responsibilities of the S.I. and the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance; and shall fix the time within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be issued to the Contractor for his written acceptance of the responsibilities assigned to him in such Certificate and, returned to the COTR within five (5) days.

(2) The Contractor shall have thirty (30) days from the Date of Substantial Completion to complete all items on the punch list to the satisfaction of the COTR The COTR shall have the option to correct or conclude any and all punch list items not completed by the Contractor within thirty (30) days from the Date of Substantial Completion by utilizing his own forces or by a separate contractor. The cost of such correction of remaining punch list items by the S.I. or others shall be deducted from the Final Payment to the Contractor. If the Contractor does not complete all punch list items within this time period specified in this Construction Contract Clause, all warranties and guarantees for such incomplete Punch List items shall become effective upon issuance of Final Payment.

(3) The issuance of the Certificate of Substantial Completion does not indicate final acceptance of the project by the S.I., and the Contractor is not relieved of any responsibility for the project except as specifically stated in the Certificate of Substantial Completion.

(4) Should the COTR determine that the Work or a designated portion thereof is not substantially complete, he shall provide the Contractor a written notice stating why the project or designated portion is not substantially complete. The Contractor shall expeditiously complete the Work and shall re-request in writing that the COTR perform a Substantial Completion inspection and the costs, if any, associated with such inspection shall be assessed to the Contractor.

(f) FINAL COMPLETION AND FINAL PAYMENT:

(1) Upon receipt of the documentation required by this Construction Contract Clause, and of written notice that the Work is ready for final inspection and acceptance, the COTR will promptly make such inspection and, when he finds the Work acceptable under the Contract Documents and the Contract fully performed, he will issue a Certificate for Final Completion to the Contractor. Upon his receipt of the Final Completion Certificate, the Contractor may submit his Application for Final Payment to the C.O. for his approval. Final Payment shall be made in full to the Contractor within thirty (30) calendar days after the approval by the C.O. of the Application for Final Payment provided that the requirements of this Construction Contract Clause have been fulfilled, except for an amount mutually agreed upon for any work remaining uncompleted for which the S.I. is entitled a credit under the Contract Documents.

(2) Neither the Final Payment nor the remaining retained percentage shall become due until the Work is free and clear of any and all liens and the Contractor submits to the C.O.:

(i) An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the S.I. or its property might in any way be responsible, have been paid or otherwise satisfied;

(ii) Consent of surety to Final Payment;

(iii) Receipts, releases and waivers of liens arising out of the Contract and such other data establishing payment or satisfaction of all such obligations to the extent and in such form as may be required and designated by the C.O.

(iv) As-built drawings, operation and maintenance manuals and other project close-out submittals, as required by the Contract Documents;

(v) A fully executed and notarized Release of claims in such form as may be designated by the S.I.; and

(vi) A written certification that:

(A) The Contractor has reviewed the requirements of the Contract Documents,

(B) The Work has been inspected by the Contractor for compliance with all requirements of the Contract Documents,

(C) Pursuant to this inspection, the Contractor certifies and represents that the Work complies in all respects with the requirements of the Contract Documents,

(D) The Contractor further certifies and represents that all equipment and systems have been installed in accordance with the Contract Documents and have been tested in accordance with specification requirements and are operational.

(vii) The making of Final Payment shall constitute a waiver of all claims by the S.I. against the Contractor except those arising from:

(A) Unsettled liens and claims against the S.I. or the Architect, or their employees, agents, or representatives,

(B) Faulty, defective or non-conforming Work discovered or appearing after Substantial or Final Completion,

(C) Failure of Work to comply with the requirements of the Contract Documents,

(D) Terms of any warranties contained in or required by the Contract Documents, or

(E) Damages incurred by the S.I. resulting from lawsuits brought against the S.I., the Architect, or their agents, employees or representatives because of failures or actions on the part of the Contractor, his Subcontractors, suppliers, or any of their employees, agents or representatives.

(F) Fraud or bad faith committed by the Contractor or Subcontractor or Supplier during performance of Work, but discovered by the S.I. after Final Payment.

52.232-S0053 Examination of Records by Smithsonian Institution (Oct 1987)

The Contractor agrees that the Contracting Officer of the Smithsonian Institution or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Part 4.7 of the Federal acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Contracting Office, Smithsonian Institution or any of this duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Part 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract for compliance with any clauses thereunder. The term "subcontract" as used in this clause excludes (a) purchase orders for public utility services at rates established for uniform applicability to the general public.

52.232-S0065 Progress Payments (January 2023)

The Contractor may submit invoice(s) to the Contracting Officer's Technical Representative, Smithsonian Institution, not more frequently than monthly for work performed and accepted. Progress payments, when applicable, shall be based on a percentage of completion less 10% retainage. The Contractor shall submit a separate monthly invoice when requesting payment. The ten percent retainage will be held until the final acceptance of all effort within each Phase.

52.233-S0006 Disputes (January 2023)

(a) Smithsonian Institution is Not Subject to the Contract Disputes Act. The Contract Disputes Act of 1978 (41 U.S.C. 601-613) is not applicable to the Smithsonian Institution. All disputes arising under or relating to this contract shall be resolved under this clause.

(b) Claims: "Claims", as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding $50,000 is not a claim until certified as required by subparagraph (c)(ii) below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. If the submission is disputed, either as to liability or amount, or if it is not acted upon in a reasonable time, it may be converted to a claim by complying with the submission and certification requirements of this clause.

(c) Claims Procedure

(1) Submitting Claims: A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Smithsonian Institution against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) Certification of Claims: For Contractor claims exceeding $50,000, the Contractor shall submit with the claim a certification that:

(i) The claim is made in good faith;

(ii) Supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and

(iii) The amount requested accurately reflects the contract adjustment for which the Contractor believes the Smithsonian Institution is liable.

(3) Who Shall Certify: If the Contractor is an individual, the certification shall be executed by that individual. If the Contractor is not an individual, the certification shall be executed by:

(i) A senior company official in charge at the Contractor's plant or location involved; or

(ii) An officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(d) Time Limits for Claims Decisions: For Contractor claims of $50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(e) Final Decision. The decision of the Contracting Officer constitutes the final and conclusive decision of the Smithsonian Institution. It is effective on the date the Contractor receives the decision. The Contractor retains all rights to subsequent judicial review to which it is entitled under federal law. The Contractor shall comply with any decision of the Contracting Officer and otherwise proceed diligently with performance of this contract pending final resolution of any request for relief, claim, or action arising under the contract.

(f) Interest on Claims: The Smithsonian Institution shall pay interest on the amount found due and unpaid from:

(1) the date the Contracting Officer receives the claim (properly certified if required), or

(2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Secretary of the Treasury during the pendency of the claim.

52.236-S0018 Calculation of Equitable Adjustment for Differing Site Conditions (Jun 2000)

(a) Any increase or decrease in the Contract price and/or Contract time resulting from differing site conditions shall be made in the manner provided by Construction Contract Clause entitled "Equitable Adjustments".

(b) The S.I. shall not be liable or responsible for additional work, costs or changes to the work due to material differences between actual conditions and any geo-technical, soils and other reports, surveys and analyses made available for the Contractor's review and not specifically incorporated into the Contract Documents.

52.236-S0021 Execution, Correlation and Intent (Jun 2000)

The requirements of the clause entitled "Specifications and Drawings" at FAR 52.236-21, are supplemented as follows:

(a) The Contract documents shall be signed in not less than quadruplicate, by the Smithsonian Institution and Contractor and each of which shall be deemed an original, but all sets shall constitute one and the same instrument.

(b) By executing the Contract, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.

(c) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Should any work or material be required which is not denoted in the drawings and specification either directly or indirectly, but which is nevertheless, necessary for the proper carrying out of the intent thereof, it is understood and agreed that the same is implied and required and that the Contractor shall perform such work and furnish such materials as fully as if they were completely delineated and prescribed. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings unless otherwise specifically defined herein. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light upon the interpretation of the provisions to which they refer.

(d) The organization of the Specifications into divisions, sections and articles, and the arrangement of Drawings is for clarity only, and shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade. The Contractor may subcontract the Work in such divisions as he sees fit and he is ultimately responsible for furnishing all work shown on the Drawings or in the Specifications or both.

(e) Anything shown on the Drawings and not mentioned in the Specification or mentioned in the Specifications and not shown on the Drawings shall have the same effect as if shown or mentioned respectively in both. Technical specifications take priority over general specifications and detail drawings take precedence over general drawings. Any work shown on one drawing shall be construed to be shown in all drawings and the contractor will coordinate the work and the drawings. If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order or precedence: solicitation, offer, award (construction, alteration or repair); Modifications; Addenda; the Supplementary Contract Clauses; the Construction Contract Clauses; the Specifications; the Drawings; the Contract Proposal unless the standards of quality of the Contractor under his Technical Proposal surpass those set forth in the Contract Documents, in which case the applicable section of the Technical Proposal will prevail. As between schedules and information given on Drawings and the scaled measurements, the figures shall govern; as between large-scale Drawings and small-scale Drawings, the larger scale shall govern. Any such conflict or inconsistency between or in the drawings shall be submitted in writing to the Smithsonian Institution whose decision thereon shall be final and conclusive.

(f) The Contractor acknowledges and agrees that this Contract is not intended to create, nor shall any provision be interpreted as creating, any contractual relationship between the Smithsonian Institution or Contractor and any third parties.

(g) The provisions of this Contract cannot be changed, varied or waived in any respect except by a Modification. The Contractor is hereby given notice that no person has authority to orally waive, or to release the Contractor from any of the Contractor's duties or obligations under or arising out of this Contract. Any waiver, approval or consent granted by Modification to the Contractor shall be limited to those matters specifically and expressly stated thereby to be waived, approved or consented to and shall not relieve the Contractor of the obligation to obtain any future waiver, approval or consent.

52.236-S0022 Ownership and Use of Documents (Jun 2000)

All Drawings, Specifications and copies thereof, furnished by the Smithsonian Institution are and shall remain the property of the Smithsonian Institution. They are to be used only with respect to this Project and are not to be used on any other project.

52.236-S0023 Shop Drawings, Coordination Drawings and Schedules (Jun 2000)

The requirements, of the Construction Contract Clause entitled "Specifications and Drawings for Construction" (FAR 52.236-21), are supplemented as follows:

(a) The Contractor shall submit shop drawings, coordination drawings, product data, samples, schedules and other submittals for approval as required by the specifications, Supplementary Construction Contract Clause entitled "Submittals", or as requested by the Contracting Officer.

52.236-S0026 Supervision and Construction Procedures (Jun 2000)

(a) The Contractor shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for and have control over all construction means, methods, techniques, sequences, procedures, safety precautions and programs, and for coordinating all portions of the Work under the Contract.

(b) The Contractor shall be responsible to S.I. for the acts and omissions of his employees, Subcontractors and Sub-subcontractors, Suppliers, their agents and employees, and other persons performing any of the Work and for their compliance with each and every requirement of the Contract Documents, in the same manner as if they were directly employed by the Contractor.

(c) The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the acts, failures to act or duties of the S.I. or the Architect in their administration of the Contract, or by inspections, tests or approvals (or the lack thereof) required or performed under the Construction Contract Clauses entitled "Uncovering of Work" and "Correction of Work", by persons other than the Contractor.

(d) Before starting a section of work, the Contractor shall carefully examine all preparatory work that has been executed to receive his Work to see that it has been completed in accordance with the Contract Documents. He shall check carefully, by whatever means are required, to ensure that his Work and adjacent, related work will finish to proper and required standards for quality, contours, planes, and levels.

(e) The Contractor shall employ no plant, equipment, materials, methods or persons to which the COTR objects. The Contractor shall not remove any portion of the Work or stored materials from the site of the Work.

52.236-S0027 Superintendent (Jun 2000)

(a) The Contractor shall employ a competent Superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the Work. The Superintendent shall be an authorized representative of the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. If requested by the COTR, the Contractor shall provide a management chart and a list of personnel in a manner stipulated by the COTR which shall comprise the superintending staff. The Superintendent Staff shall include but not be limited to: General Superintendent, Assistant Superintendent, Scheduling/Cost Engineers and Working Foremen. In such event, all references to the Superintendent elsewhere in the Contract Documents shall mean the superintending staff.

(b) The Superintendent shall be in attendance at the Project site not less than eight hours per day, five days per week, unless the job is closed down due to a general strike or conditions beyond the control of the Contractor or until termination of the Contract in accordance with the Contract Documents. It is understood that such Superintendent shall be approved in writing by the C.O. and shall be the one who will be continued in that capacity for the duration of the project, unless he ceases to be on the Contractor's payroll or his withdrawal is requested or approved by the C.O. The Superintendent shall not be employed on any other project for or by Contractor or any other entity during the course of the Work.

(c) In the event the following conditions shall exist, the Contractor shall require that his Superintendent be at the Project site not less than ten hours per day, six days per week:

(1) should Substantial Completion not be accomplished on schedule.

(2) should Final Completion not be accomplished on schedule.

(3) should the Progress Schedule indicate in the opinion of the COTR that the Contractor is fourteen or more days behind schedule at any time during construction up until thirty days prior to scheduled Substantial Completion.

(4) should the Progress Schedule indicate in the opinion of the COTR that the Contractor is seven or more days behind schedule at any time during the last thirty days prior to scheduled Substantial Completion.

52.236-S0028 Coordination of the Work (Jun 2000)

By entering into this contract, the Contractor acknowledges that there may be separate contractors on the Site whose work will be coordinated with that of his own. The Contractor expressly warrants and guarantees that he will cooperate with separate contractors and will do nothing to delay, hinder or interfere with the Work of other separate contractors, The S.I. or the Architect. The Contractor also expressly agrees that, in the event his work is hindered, delayed, interfered with or otherwise affected by a separate contractor, his sole remedy will be a direct action against the separate contractor as described in the Construction Contract Clause entitled "Work by the Smithsonian Institution or by Separate Contractors". The Contractor will have no remedy, and hereby expressly waives any remedy, against the S.I. on account of delay, hindrance, interference or other event caused by a separate contractor.

52.236-S0029 Construction Procedures (Jun 2000)

(a) The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the acts, failures to act or duties of the S.I. or the Architect in their administration of the Contract, or by inspections, tests or approvals (or the lack thereof) required or performed under the Construction Contract Clauses entitled "Uncovering of Work" and "Correction of Work" by persons other than the Contractor.

(b) Before starting a section of work, the Contractor shall carefully examine all preparatory work that has been executed to receive his Work to see that it has been completed in accordance with the Contract Documents. He shall check carefully, by whatever means are required, to ensure that his Work and adjacent, related work will finish to proper and required standards for quality, contours, planes and levels.

(c) The Contractor shall employ no plant, equipment, materials, methods or persons to which the COTR objects. The Contractor shall not remove any completed Work or stored materials from the site.

52.236-S0033 Smithsonian Institution's Right to Clean Up (Jun 2000)

If the Contractor fails to clean up during or at the completion of the Work, the COTR may do so as provided in the Construction Contract Clause entitled "Work By The Smithsonian Institution or By Separate Contractors" and the cost thereof shall be charged to the Contractor.

52.236-S0034 Conditions Affecting the Work (Jun 2000)

The Contractor shall be responsible for taking all steps necessary to ascertain the nature and location of the Work and the general and local conditions, which may affect the Work or the cost thereof. Failure by the Contractor to fully acquaint himself with conditions which may affect the Work, including, but not limited to conditions relating to transportation, handling, storage of materials, availability of labor, water, roads, weather, topographic and subsurface conditions, applicable provisions of law, and the character and availability of equipment and facilities needed prior to and during the execution of the Work, shall not relieve the Contractor of his responsibilities under the Contract Documents and shall not constitute a basis for any adjustment in the Contract Price or the Contract Time under any circumstances. The S.I. assumes no responsibility or representation about conditions affecting the Work made by any of his officers, employees, representatives, or agents prior to the execution of the Contract, unless such understandings or representations are expressly stated in the Contract Documents.

52.236-S0035 Work by the Smithsonian Institution or by Separate Contractors (Jun 2000)

(a) Smithsonian Institution Right To Perform Work And To Award Separate Contracts:

(1) The S.I. reserves the right to perform work related to the Project with his own forces, and to award separate contracts in connection with other portions of the Project or other work on the site.

(2) When separate contracts are awarded for different portions of the Project or other work on the site, the term Contractor in the Contract Documents in each case shall mean the Contractor who executes each separate S.I.-Contractor Agreement.

(b) Mutual Responsibility:

(1) The Contractor shall afford other contractors and the S.I. reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work and shall properly connect and coordinate the Work with that of the S.I. and other contractors to store his tools, materials, and equipment in such orderly fashion at the site of the Work as will not unduly or unreasonably interfere with the progress of the Work or the work of any other contractors.

(i) In the execution or result of any part of the Work depends upon any work of the S.I. or of any separate contractor, the Contractor shall, prior to proceeding with the Work, inspect and promptly report to the COTR in writing any apparent discrepancies or defects in such work of the S.I. or of any separate contractor that render it unsuitable for such proper execution or result of any part of the Work.

(ii) Failure of the Contractor to so inspect and report shall constitute an acceptance of the S.I.'s or separate contractor's work as fit and proper to receive the Work, except as to defects which may develop in the S.I.'s or separate Contractor's work after completion of the Work and which the Contractor could not have discovered by its inspection prior to completion of the Work.

(2) Should the Contractor cause damage to the Work or property of the S.I. or of any separate contractor on the Project, or to other work on the site, or delay or interfere with the S.I.'s work on ongoing operations or facilities or adjacent facilities or said separate contractor's work, the Contractor shall be liable for the same; and, in the case of a separate contractor, the Contractor shall attempt to settle said claim with the separate contractor prior to such other contractor's institution of litigation or other proceeding against the Contractor.

(i) If such separate contractor sues the S.I. on account of any damages, delay or interfere caused or alleged to have been so caused by the Contractor, the S.I. shall notify the Contractor, who shall defend the S.I. in such proceedings at the Contractor's expense. If any judgment or award is entered against the S.I., the Contractor shall satisfy the same and shall reimburse the S.I. for all damages, expenses, attorneys' fees and other costs which the S.I. incurs as a result thereof.

(3) Should a separate contractor cause damage to the Work or to the property of the Contractor or cause delay or interference with the Contractor's performance of the Work, the Contractor shall present directly to said separate contractor any claims it may have as a result of such damage, delay or interference (with an information copy to the C.O.) and shall attempt to settle its claim against said separate contractor prior to the institution of litigation or other proceedings against said separate contractor.

(i) In no event shall the Contractor seek to recover from the S.I., and the Contractor hereby warrants to S.I. that it will not seek to recover from the S.I. any costs, expenses (including, but not limited to, attorneys' fees) or damages or other losses incurred by the Contractor as a result of any damage to the Work or property of the Contractor or any delay or interference caused by any separate contractor.

ii) In order to carry out the intent of this Construction Contract Clause, the Contractor agrees that privity of contract exist between Contractor and any separate contractor, as defined herein, for the purpose of disposing of the liabilities or obligations which are imposed upon said parties to each other hereunder; and Contractor agrees to accept service of process and to sue and be sued in the Contractor's own name in any litigation which may arise hereunder between the Contractor and any separate contractor. S.I. agrees to include the provisions of this Construction Contract Clause in all separate Contractor Agreements.

(c) S.I.'S Right To Perform Disputed Work:

If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by the Construction Contract Clause entitled "Cleaning Up", or for accomplishing coordination as required by the Construction Contract Clause entitled "Coordination of the Work," the S.I. may carry out such work and charge the cost thereof to the contractors responsible therefore as the C.O. shall determine.

(d) Coordination Of The Work:

By entering into this contract, the Contractor acknowledges that there may be separate contractors on the Site whose work will be coordinated with that of his own. The Contractor expressly warrants and guarantees that he will cooperate with separate contractors and will do nothing to delay, hinder, or interfere with the Work of other separate contractors, the S.I. or the Architect. The Contractor also expressly agrees that, in the event his work is hindered, delayed, interfered with or otherwise affected by a separate contractor, his sole remedy will be a direct action against the separate contractor as described in this Construction Contract Clause. Contractor will have no remedy, and hereby expressly waives any remedy, against the S.I. on account of delay, hindrance, interference or other event caused by a separate contractor.

52.236-S0037 Smithsonian Institution's Right to Carry Out the Work (Jun 2000)

(a) If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven days after receipt of written notice to commence and continue correction of such default or neglect with diligence and promptness, S.I. or its designated representative may, after seven days following receipt by the Contractor of an additional written notice and without prejudice to any other remedy he may have, make good such deficiencies and may further elect to complete all Work thereafter through such means as the S.I. may select, including the use of a new contractor. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Architect's and any other additional services made necessary by such default, neglect or failure. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the S.I.

(b) The S.I. will not be liable or accountable to the Contractor or his surety for the method by which the work or any portion thereof, performed by S.I. or by separate contractors pursuant to this Construction Contract Clause is accomplished or for the price paid therefore. Notwithstanding, the S.I.'s right to carry out a portion of the work, maintenance and protection of the work remains the Contractor's and Surety's responsibility as provided for in the Performance Bond.

52.236-S0052 Correction of Work (Jun 2000)

(a) The Contractor shall promptly reconstruct, replace or correct all Work rejected by the S.I. as defective or as failing to conform to the Contract Documents or as not in accordance with the guarantees and warranties specified in the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs correcting such rejected Work, including compensation for the Architect's and any other additional services made necessary thereby.

(b) The Contractor, unless removal is waived by the S.I., shall remove from the site all portions of the Work which are defective or non-conforming, or if permitted or required, he shall correct such Work in place at his own expense promptly after receipt of notice, and such rejected Work shall not thereafter be tendered for acceptance unless the former rejection or requirement for correction is disclosed.

(c) If the Contractor does not proceed with the correction of such defective or non-conforming Work within a reasonable time fixed by written notice from the S.I., the S.I. may either-

(1) by separate contract or otherwise replace or correct such Work and charge the Contractor the cost occasioned the S.I. thereby and remove and store the materials or equipment at the expense of the Contractor, or

(2) terminate this Contract for default as provided in the Construction Contract Clause entitled "Default".

(d) The Contractor shall bear the cost of making good all work of the S.I. or separate contractors destroyed or damaged by such correction or removal.

(e) Nothing contained in this Construction Contract Clause shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents, including the Construction Contract Clause entitled "Additional Warranties and Guarantees". The establishment of the time period of one year after the Date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligations other than specifically to correct the Work.

(f) If the S.I. prefers to accept defective or non-conforming Work, it may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable, or the S.I. may elect to accept payment in materials or services, in lieu of a reduction in the Contract Sum. If the amount of a reduction is determined after final payment, it shall be paid to the S.I. by the Contractor.

52.236-S0072 Nonpayment for Additional Work (January 2023)

Any additional services or a change to work specified which may be performed by the Contractor, either at his own volition or at the request of an individual other than a duly appointed Contracting Officer except as may be explicitly authorized in this contract, are not authorized and will not be paid for. Only a duly appointed Contracting Officer is authorized to change the specifications, terms, and conditions in this contract.

52.243-S0044 Equitable Adjustments (Jun 2000)

(a) The provisions of the Changes clause prescribed by FAR 52.243-4 are supplemented as follows:

(1) The COTR may request an itemized proposal for the work. The Contractor shall submit an itemized proposal within ten (10) days of its receipt of the COTR's request. The Contractor's proposal shall be accompanied by signed itemized proposals of any Subcontractors who will perform any portion of the Change and of any persons who will furnish materials or equipment for incorporation therein. The proposal shall also include the Contractor's estimate of the time required to perform the change. The Contractor's and each involved subcontractor's proposals shall be itemized with unit quantity and unit costs segregated by labor and materials for the various components by the Change and shall include information required by the Supplementary Construction Contract Clause entitled "Scheduling of the Work".

(2) The portion of the proposal relating to labor, whether by the Contractor's forces or the forces of any of its Subcontractors, may include reasonably anticipated wages of Job Site labor, including foreman, who will be directly involved in the Change, plus payroll costs (including premium costs of overtime labor, if overtime is anticipated, Social Security, Federal or State Unemployment insurance taxes, workers compensation insurance, general liability insurance, and fringe benefits required by collective bargaining agreements entered in connection with such labor) and up to twenty-one percent (21%) of said anticipated wages and payroll costs, as overhead and profit on anticipated wages and payroll costs, for the Contractor or any Subcontractor. Said overhead and profit to include all mobilization and supervision costs except foreman as applicable. Job Site labor for changes customarily is on site labor to include foreman. Project management or supervision cost, unless specified otherwise by Smithsonian project management, is considered to be included in the contractor's and each involved Subcontractor's overhead costs.

(3) The portion of the proposal, with unit quantities and unit costs, relating to materials may include the reasonably anticipated costs, whether procured by the Contractor or its Subcontractors, of materials to be purchased for the Change plus transportation and applicable sales or use taxes and up to twenty-one percent

(21%) of the said direct material costs, but not applicable sales or use taxes, as overhead and profit for the Contractor or any such Subcontractor, such overhead and profit to include all small tools and miscellaneous material expenses. The proposal may further include the Contractor's and Subcontractor's reasonably anticipated rental costs in connection with the Change in the Work, plus up to six percent (6%) thereof as overhead and profit for the Contractor or any such Subcontractor as applicable.

(4) The itemized proposal may include up to ten percent (10%) of the amount which the Contractor will pay to any of its Subcontractors for the Changes as a commission to the Contractor. The following sample formats for proposals is provided as general guidance to be used with all appropriate back-up data.

(See attachments 1 and 2)

(5) The allowable overhead shall be determined in accordance with the contract cost principles and procedures in Part 31 of the Federal Acquisition Regulation (48 CFR Part 31) in effect on the date of this contract. The percentages for overhead, profit, and commission shall in no case exceed the following:

Composite

Overhead &

Profit Commission

To contractor on work

performed by another

than his own forces --- 10%

To contractor and/or the

subcontractors for that

portion of the work

performed with their

respective forces 21% ---

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(6) In the event that the Contractor fails to submit his proposal within the designated period, the Smithsonian may order the Contractor to proceed with the Change and the Contractor shall so proceed. The C.O. will unilaterally determine the reasonable cost and time to perform the Change in question, which determination shall be final and binding upon the Contractor.

(7) If the Contractor timely submits a proposal and the parties are unable to agree as to the reasonable cost and time to perform the Change the C.O. may make a unilateral determination of the reasonable cost and time to perform the Change in the Work, based upon his own estimates, the Contractor's submission or a combination thereof. A Change Order shall be issued for the amounts of cost and time determined by the C.O. and shall become binding upon the Contractor. The C.O. has the right to direct in writing the Contractor to perform the Change. Failure of the parties to reach agreement regarding the cost and time of performing the Change shall not relieve the Contractor from performing the Change promptly and expeditiously.

(8) If the C.O. elects to have the Change performed on a time and material basis, the Change shall be performed, whether by the Contractor's forces or the forces of any of its Subcontractors at actual cost to the entity performing the Change in the Work (without any charge for administration, clerical expense, supervision or superintendence of any nature whatsoever, including foremen, or the cost, use or rental of tools or plant), plus up to twenty-one percent (21%) of these actual costs as the total overhead and profit. The Contractor shall submit to the COTR daily time and material tickets, to include the identification number assigned to the Change, the location and description of the Change, the classification of labor employed (names and social security numbers), the materials used, the equipment rented (not tools) and such other evidence of cost as the S.I. may require. The S.I. may require authentication of all time and material tickets and invoices by persons designated by the S.I. for such purposes; provided, however, that the authentication of any such ticket or invoice by the S.I. will not constitute an acknowledgement by the S.I. that the items thereon were reasonably required by the Change in the Work. The failure of the Contractor to secure any required authentication shall, if the S.I. elects to treat it as such, constitute a waiver by the Contractor in the Work covered by a non-authenticated ticket or invoice.

(9) No overhead and profit will be paid by the S.I. on account of a Change in the Work except as specifically provided in this Construction Contract Clause. Overhead and Profit, as allowed under this Construction Contract shall be deemed to include all costs and expenses which the Contractor or any of its Subcontractors may incur in the performance of a Change in the Work and which are not otherwise specifically recoverable by them pursuant to this Construction Contract Clause. Overhead, profit and Contractor's or Subcontractor's commission percentages shall be considered to include, unless specified by S.I. project management; insurance except workers compensation and general liability, field and office supervisors, engineers and their assistants, watchman, use of small tools, incidental job burdens and general home office expenses, and no separate allowance will be made therefore. The term "Assistants" includes 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 requirement. 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 therefore, considered to be included in the Contractor's or Subcontractor Overhead, Profit and/or Commission percentage.

(10) Where the Contractor's or Subcontractor's portions of a Change involve credit items, such items must be deducted prior to adding overhead and profit for the party performing the work.

(11) The Contractor shall not be entitled to any amount for indirect costs, damages or expenses of any nature, including, but not limited to, so-called impact costs, labor inefficiency, wage material or other escalations beyond the prices upon which the proposal is based and which are identified pursuant to this Clause, and which the Contractor, its Subcontractors or Suppliers may incur as a result of delays, interference, suspensions, changes in sequence or the like, from whatever cause, whether reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, arising from the performance of any and all changes in the Work performed pursuant to this Clause. It is understood and agreed that the Contractor's sole and exclusive remedy in such event shall be recovery of his costs and specified markups for overhead, profit and/or commission as set forth in this Clause and an extension of the Contract Time, but only in accordance with the provisions of the Contract Documents.

(12) If the Change in the Work will result in a decrease in the Contract Price, the COTR may request a quotation by the Contractor of the amount of such decrease for use in preparing a Change Order. The Contractor's quotation shall be forwarded to the COTR within (10) days of the COTR's request and, if acceptable to the C.O., shall be incorporated in the Change Order. If not acceptable, the parties shall make every reasonable effort to agree as to the amount of such decrease, which may be based on a properly itemized proposal as specified by this Construction Contract Clause, or on such other basis as the parties may mutually determine. If the parties are unable to agree, the amount of such decrease shall be the total of the estimated reduction in actual cost of the Work, as determined by the C.O.'s judgment, plus up to twenty-one percent (21%) thereof for Overhead and Profit.

(13) No claim relating to or flowing from a particular change shall be allowed after the Contractor's execution of the change order relating to the change.

(14) If any dispute should arise between the parties with respect to an increase or decrease in the Contract Price or an extension or reduction in the Contract Time or as a result of a Change in the Work, the Contractor shall not suspend performance of a Change in the Work or the Work itself unless otherwise so ordered by the C.O. in writing. The S.I. will, however, pay the Contractor up to the S.I.'s estimated value of the Change in the Work, regardless of the dispute, if said Change in the Work results in an increase in the Contract Price; and the S.I. will have the right to decrease the Contract Price up to the S.I.'s estimated value of the Change in the Work, regardless of the dispute, if said Change in the Work results in a decrease in the Contract Price.

52.243-S0045 Pricing of Adjustments (Jun 2000)

When costs are a factor in any determination of a contract price adjustment pursuant to the "Changes" clause or any other clause of this contract, such costs shall be in accordance with the contract cost principles and procedures in Part 31 of the Federal Acquisition Regulation (48 CFR 1-31).

52.244-S0013 Subcontractors (Jun 2000)

(a) Definitions.

(1) A Subcontractor is a person or entity that has a direct contract with the Contractor to perform any of the Work at the site. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representative. The term Subcontractor includes any persons or entity that has a direct or indirect contract with the Contractor to perform any the work.

(2) A Supplier is a person or entity that has a direct or indirect contract with the Contractor to furnish any material or equipment included in the Work. The term Supplier is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Supplier or its authorized representative.

(3) Nothing contained in the Contract documents is neither intended to, nor shall it create, any contractual relationship between the S.I., the Architect, or any of their agents, consultants, employees, independent contractors, or representatives and any Subcontractor or Supplier, but the S.I. shall be entitled to performance of all obligations intended for its benefit, and to enforcement thereof.

(4) The COTR will not deal directly with any Subcontractor or Supplier. Communication will be made only through the Contractor. Subcontractors and Suppliers shall route requests for information or clarification through the Contractor to the COTR.

(b) Award of Subcontracts and Other Contracts for Portions of the Work.

(1) The Contractor, in compliance with the requirements of the Contract Documents, shall furnish to the C.O. in writing the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Contractor shall provide this list to the C.O. within ten (10) days after execution of the Contract. The C.O. will promptly reply to the Contractor in writing stating whether the C.O. has objection to any such proposed person or entity. The Contractor understands and agrees that no contractual agreement exists for any part of the Work under this Contract between the S.I. or Architect and any of the Subcontractors or Suppliers. Further, the Contractor understands and agrees that he alone is responsible to the S.I. for all of the Work under this contract and that any review of Subcontractors or Suppliers by the COTR, will not in any way make the S.I. responsible to any Subcontractor or Supplier nor responsible for the actions or failures of any Subcontractor or Supplier.

(2) The Contractor shall not contract with any such proposed Subcontractor or Supplier to whom the C.O. has made objection under the provisions of the Construction Contract Clause entitled "Subcontractors". The Contractor shall not be required to contract with anyone to whom he has an objection.

(3) If the C.O. objects to any proposed Subcontractor or Supplier under the Clause entitled "Subcontractors", the Contractor shall name a substitute to whom the C.O. has no objection within 15 days.

(4) If the C.O. requires a change of any Subcontractor or Supplier previously proposed by the Contractor and not objected to by the C.O., the Contractor shall have the right to subject a Request for Change Order under the Construction Contract Clause entitled "Changes".

(5) The Contractor shall make no substitution for any Subcontractor or Supplier previously proposed by the Contractor and not objected to by the C.O. if the S.I. makes objection to such substitution.

(c) Sub-contractual Relations.

(1) By an appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the S.I. Said agreement shall preserve and protect the rights of the S.I. under the Contract Documents with respect to the work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the Contractor-Subcontractor or Contractor-Supplier Agreements, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Contract Documents, has against the S.I. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his Subcontractors or Suppliers. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Construction Contract Clause entitled "Subcontractors", and identify to the subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Contract Documents available to his Subcontractor or Suppliers.

(2) The provisions herein regarding proposal of Subcontractors or Suppliers shall in no way affect the liability of the Contractor to the S.I. regarding performance of all obligations by or payment of Subcontractors or Suppliers. Lack of objection by the C.O. to any Subcontractor or Supplier shall not to any degree relieve the Contractor of his obligation to perform or have performed to the full satisfaction of the S.I. the Work required by this Contract.

(3) The Contractor shall be liable to and indemnify and hold the S.I. harmless from all costs, expenses, fees, attorneys' fees, accountant's fees, damages and claims arising because of the Contractor's failure to comply with the provisions of this Construction Contract Clause entitled "Subcontractors".

(d) Qualification Submittals.

(1) Specific qualification submittals may be required of Subcontractors and Suppliers for certain critical items of the Work. Required qualification submittals are set forth in detail in the Contract Documents and shall be collected and submitted by the Contractor for review and approval by the COTR. All information required of a single Subcontractor or Supplier shall be contained in a single, complete submittal. The Contractor shall submit the required qualification information within ten (10) days after receipt of the COTR's request.

(2) The C.O. may reject any proposed Subcontractor or Supplier, or any qualification submittals related thereto, for the following reasons:

(i) The Contractor's failure to submit requested information within the specified time; or

(ii) The Contractor's failure to provide all of the requested information; or

(iii) The Contractor's submission of a Subcontractor or Supplier, or qualifications thereof, which are unacceptable to the C.O.

(3) Should the C.O. have objection to any proposed Subcontractor or Supplier, the Contractor shall submit another firm for approval by the C.O. within fifteen (15) days from notification of objection by the C.O.

(4) Competitive Bid of Subcontracted Work (for CMc Contracts only)

For all subcontracted work, the CMc shall obtain competitive pricing from a minimum of three (3) prequalified, independent sources and conduct a best value assessment of the sources. The SI reserves the right to attend all bid openings and the results of competitive pricing shall be made available to the SI. The SI shall have the option to participate in the selection of subcontractors. For items or work where three sources are not available due to circumstances such as uniqueness of the item, limited sources, or regional shortages, the CMc shall substantiate this situation to the satisfaction of the SI. The CMc shall make recommendations for change or substitution of these items to promote the maximum competition available. The CMc will canvas the market to evaluate subcontractor interest, keeping in mind the SI Small Business subcontracting goals as delineated elsewhere in the solicitation, and prepare a source list of potential bidders or Offerors. At the request of the Contracting Officer, the CMc will suggest strategies for expanding competition by stimulating more bidder interest. The CMc shall solicit drawing and specification reviews from all subcontractors pricing the work and shall insure that the subcontractor¿s pricing reflects the costs for resolution of any errors or omissions that were noted and allowance for completion of documents. All self- performed work by the CMc that exceeds $50,000.00 shall be audited by the SI. The SI reserves the right to audit all subcontractor work including subcontractor bids. CMc shall provide documentation of its best value assessments for both successful bids and unsuccessful bids. All documentation of its best value assessments for both successful bids and unsuccessful bids including the resulting analyses performed, that justifies the selection of all successful subcontractors shall be maintained for six years after contract closeout.

52.245-S0071 Responsibility for Smithsonian Property (January 2023)

The Contractor assumes full responsibility for and shall indemnify the Smithsonian for any and all loss of damage of whatsoever kind and nature to any and all Smithsonian property, including any equipment, supplies, accessories, or parts furnished, while in his custody and care for storage, repairs, or services to be performed under the terms of this contract, resulting in whole or in part from the negligent acts or omissions of the Contractor, any subcontractor, or any employee, agent, or representative of the Contractor or subcontractor.

52.246-S0040 Warranty Definitions (MAR 2023)

(a) The warranty and guarantee provisions of the General Clauses apply to all work of the contract, including but not limited to, the following specific categories related to individual units of work specified in sections of Divisions 2 through 33 of these specifications:

(1) Special Project Warranty (Guarantee): A warranty specifically written and signed by the Contractor for a defined portion of the work; and, where required, countersigned by subcontractor, installer, manufacturer or other entity engaged by the Contractor.

(2) Specified Product Warranty: A warranty which is required by contract documents, to be provided for a manufactured product incorporated in to the work; regardless of whether manufacturer has published a similar warranty without regard for specific incorporation of a product into the work, or has written and executed a special project warranty as a direct result of contract document requirements.

(3) Coincidental Product Warranty: A warranty which is not specifically required by contract documents (other than as specified in this Section), but which is available on a product incorporated into the work, by virtue of the fact that manufacturer or product has published warranty in connection with purchases and uses of product without regard for specific application except as otherwise limited by terms of warranty.

52.249-S0048 Delays and Extensions of Time (Jun 2000)

(a) The time during which the Contractor is delayed in the performance of the Work, by the acts or omissions of the S.I., the Architect or their employees or agents, acts of God, unusually severe and abnormal climatic conditions, fires, floods, epidemics, quarantine restrictions, strikes, riots, civil commotion or freight embargoes, or other conditions beyond the Contractor's control and which the Contractor could not reasonably have foreseen and provided against, shall be added to the Contract Time; provided, however, that no claim by the Contractor for an extension of time for delays will be considered unless made in compliance with the requirements of this Construction Contract Clause and other provisions of the Contract Documents. (b) Neither the S.I., nor the Architect shall be obligated or liable to the Contractor for, and the Contractor hereby expressly waives any claims against the S.I. and the Architect on account of any indirect or direct damages, costs or expenses of any nature which the Contractor, Subcontractors, or Suppliers or any other person may incur as a result of any delays, interference, changes in sequence or the like, which are reasonable, foreseeable, contemplated, or avoidable by the Contractor, arising from or out of any act or omission of the S.I. or the Architect, or their agents, employees, consultants, separate contractors or any governmental representative, it being understood and agreed that the Contractor's sole and exclusive remedy in any such events shall be an extension of the Contract Time, but only as determined in accordance with the provisions of the Contract Documents. (c) The Contract Time shall be adjusted only for Change Orders pursuant to the Construction Contract Clause entitled "Changes", Suspension of Work pursuant to the Construction Contract Clause entitled "Smithsonian Institution's Right to Stop or Suspend the Work", and the Construction Contract Clause entitled "Smithsonian Institution's Right to Carry Out the Work." In the event the Contractor requests an extension of the Contract Time, he shall furnish such justification and supporting evidence as the C.O. may deem necessary for a determination of whether the Contractor is entitled to an extension of time under the provisions of the Contract. The burden of proof to substantiate a claim for an extension of the Contract Time shall rest with the Contractor, including evidence that the cause was beyond his control. The C.O. shall base his findings of fact and decision on such justification and supporting evidence and shall advise the Contractor in writing thereof. If the C.O. finds that the Contractor is entitled to any extension of the Contract Time, the C.O.'s determination of the total number of days extension shall be based upon the currently approved Progress Schedule and on all data relevant to the extension. Such data will be incorporated into the Progress Schedule in the form of a revision thereto, accomplished in a timely manner. The Contractor acknowledges and agrees that actual delays (due to said changes, suspension of Work or excusable delays) in activities which, according to the Progress Schedule, do not affect the Contract Time, do not have any effect upon the Contract Time and therefore will not be the basis for a change therein. The Contractor acknowledges and agrees that time extensions will be granted only to the extent that excusable delays exceed the available float in the Contractor's Progress Schedule. (d) Subject to other provisions of the Contract, the Contractor may be entitled to an extension of the Contract Time (but no increase in the Contract Price) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, his Subcontractors or Suppliers as follows: (1) Labor disputes and strikes (including strikes affecting transportation), that do, in fact, directly and critically affect the progress of the Work; however, an extension of Contract Time on account of an individual labor strike shall not exceed the number of days of said strike; (2) Acts of God, tornado, fire, hurricane, blizzard, earthquake, typhoon, or flood that damage completed work or stored materials.

(3) Abnormal inclement weather; however, the Contract Time will not be extended due to normal inclement weather. The time for performance of this Contract, as stated in the Contract Documents, includes an allowance for calendar days, which may not be available for construction out-of-doors; for the purposes of the Contract, the Contractor agrees that said number of calendar days per month are to be considered as normal inclement weather.

Unless the Contractor can substantiate to the satisfaction of the S.I. that there were greater than normal inclement weather considering the full term of the Contract Time using a ten year average of accumulated record mean values from climatological data compiled by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration for the locale of the Project and that such alleged greater than normal inclement weather actually delayed the Work or portions thereof which had an effect upon the Contract Time, the Contractor shall not be entitled to an extension of time. If the total accumulated number of calendar days lost due to inclement weather, from the start of Work until Final Completion exceeds the total accumulated number to be expected for the same period from the aforesaid climatological data, time

for completion will be extended by the number of calendar days needed to include the excess number of calendar days lost.

(4) Acts of the public enemy, acts of the state, Federal or local government in its sovereign capacity, and acts of a separate contractor in the performance of its contract with the S.I. relating to the Project.

(e) The Contractor shall not be entitled to and hereby expressly waives any extension of time resulting from any condition or cause unless said claim for extensions of time is made in writing to the C.O. within seven (7) days of the first instance of delay. Circumstances and activities leading to such claim shall be indicated or referenced in a daily field inspection report for the day(s) affected; otherwise, all such claims are waived by the Contractor. In every such written claim, the Contractor shall provide the following information:

(1) Nature of the delay;

(2) Date (or anticipated date) of commencement of delay;

(3) Activities on the Progress Schedule affected by the delay, and/or new activities created by the delay and their relationship with existing activities;

(4) Identification of person(s) or organization(s) or event(s) responsible for the delay;

(5) Anticipated extent of the delay;

(6) Recommended action to avoid or minimize the delay.

52.249-S0049 Non-Compliance with Contract Requirements (Jun 2000)

In the event the Contractor, after receiving written notice from the Contracting Officer of non-compliance with any requirements of this Contract, fails to initiate promptly such action as may be appropriate to comply with the specified requirement within a reasonable period of time, the Contracting Officer shall have the right to order the Contractor to stop any and all work under the contract until the Contractor has complied or has initiated such action as may be appropriate to comply within a reasonable period of time. The Contractor will not be entitled to any extension of Contract time or payment for costs incurred as a result of being ordered to stop work for such cause.

52.249-S0050 Termination for Convenience of the Smithsonian Institution (Jun 2000)

The provisions of the Termination for Convenience Clause prescribed by FAR 52.249-2 are supplemented as follows:

(a) The S.I. may, at any time upon ten days' written notice to the Contractor terminate (without prejudice to any right or remedy of the S.I.) the whole or any portion of the Work for the convenience of the S.I. This Notice of Termination shall specify that portion of the Work to be terminated and the effective date of termination. The Contractor's sole remedy, in the event of such termination, will be the allowable termination costs permitted by the Construction Contract Clauses entitled "Termination for Convenience of the Government" and "Termination for Convenience of the S.I.".

(b) Contractor shall include termination clauses identical to the Construction Contract Clauses entitled "Termination for Convenience of the Government" and "Termination for Convenience of the S.I.", in all contracts and purchase orders related to the Work in each of his Subcontracts. Failure to include these termination clauses in any subcontracts or purchase orders shall preclude recovery of any termination costs related to that subcontract or purchase order.

(c) If the S.I. terminates the whole or any portion of the Work for convenience pursuant to this Construction Contract Clause, then the S.I. shall only be liable to the Contractor for those costs reimbursable to the Contractor in accordance with this Construction Contract Clause, plus a markup of ten percent for profit and overhead on the actual fully accounted costs recovered under this Construction Contract Clause; provided, however, that if there is evidence that the Contractor would have sustained a

loss on the entire Contract had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.

52.250-S0073 Indemnification (January 2023)

(a) Contractor shall be responsible for all damage and expense to person(s) or property caused by its negligent acts and those of its subcontractors, agents or employees, in connection with the work and services performed under this contract. Contractor shall indemnify, hold harmless and defend the Smithsonian Institution, its museums, bureaus, its Regents, officers, agents, employees and the U.S. Government from and against all claims, and liability (including judgments, settlements, statutory liability under Workers Compensation laws), and expenses (including attorneys fees) for any damages, expenses, acts and/or omissions of the Contractor, its agents, subcontractors or employees, related directly or indirectly to any aspect of this contract or performance of work hereunder, including claims and liability for injury to or death of any third party or of Contractor's, agents, subcontractors or employees.

(b) Contractor shall be liable for all damages, costs and expense incurred by the Smithsonian Institution in the construction of the Project(s) including, but not limited to, damages, costs and expenses resulting from claims brought against the Smithsonian Institution by the construction contractor(s) caused by the failure of Contractor to perform the work and services under this contract with the same degree of standard of care and skill normally expected of and provided by consultants in the performance of the same or similar work and services to be provided under this contract.

(c) Acceptance of the work and services by the Smithsonian shall not waive any of the rights of the Smithsonian or release the Contractor from any liability, responsibility or duty contained herein.

52.252-S0011 Notice of Deviation in Clauses (Jun 2000)

TAKE NOTICE, that these Construction Contract Clauses (Fixed Price) may contain language and clauses and/or paragraph headings or names which appear similar to, or the same as the "Federal Acquisition Regulation - Construction Contract Clauses", "General Services Administration Regulation Construction Contract Clauses (Fixed Price)", and provisions of the "General Conditions of the Contract for Construction", published by the American Institute of Architects, AIA Document A-201, 1976 Edition.

TAKE NOTICE, however, that these Construction Contract Clauses (Fixed Price) are substantially and materially different in many respects from the FAR, GSAR and AIA Document A-201 and that certain additions, deletions or other modifications have been made to provisions similar to those contained in the FAR, GSAR and the AIA Document A-201. This document, further, contains provisions which do not appear in the FAR, GSAR and the AIA Document A-201.

SI-0051 Uncovering of Work (Jun 2000)

(a) If any portion of the Work should be covered contrary to the request of the S.I. or to requirements specifically expressed in the Contract Documents or to requirements of applicable Construction Permits, it must, if required in writing by the S.I., be uncovered for its observation and shall be replaced at the Contractor's expense.

(b) If any other portion of the Work has been covered which the S.I. has not specifically requested to observe prior to being covered, the S.I. may request to see such Work and it shall be uncovered by the Contractor. If such Work accords with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the S.I. If such Work does not accord with the Contract Documents, the Contractor shall pay such costs unless the S.I. caused this condition in which event the S.I. shall pay such costs. If such condition was caused by a separate contractor, Contractor may proceed against and only against, said separate contractor as provided in Article 6.

SI-0077 Furnishing Information and Records

(a) If the Contractor or any subcontractor under this contract or the officers or agents of the Contractor or any other subcontractor refuses, except as provided by the terms of this contract, to furnish to any Government agency or any establishment in the legislative or judicial branch of the Government information or records reasonably pertinent to this contract, the following action may be taken:

(1) In the case of a refusal by the Contractor, its officers or agents, the Government may, after affording an opportunity to explain or justify such refusal, terminate the Contractor's right to proceed with the work. The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract;

(2) In the case of a refusal by a subcontractor, its officers or agents, the Government may, after affording an opportunity to explain or justify such refusal, require the Contractor to terminate the subcontract without cost to the Government, or if the Contractor fails or refuses to effect such termination, the Government may terminate the Contractor's right to proceed with the work under this contract and thereupon the Government may avail itself of the rights and remedies referred to in subparagraph (1) above.

(b) The term "subcontract" as used in this clause means any contract entered into, or any purchase order issued by, a prime Contractor under a contract with the Government in connection with the performance of the prime Contractor's obligations under this contract.

(c) The term "subcontractor" as used in this clause means a party to a subcontract other than the prime Contractor under this contract.

52.227-1 Authorization and Consent. (DEC 2007) 52.227-23 Rights to Proposal Data (Technical). (JUN 1987) 52.228-2 Additional Bond Security. (OCT 1997)

52.228-5 Insurance - Work on a Government Installation. (JAN 1997) 52.228-11 Pledges of Assets. (JAN 2012)

52.228-12 Prospective Subcontractor Requests for Bonds. (MAY 2014)

In accordance with section 806(a)(3) of Pub. L. 102-190, as amended by sections 2091 and 8105 of Pub. L. 103-355 (10 U.S.C. 2302 note), upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of this contract for which a payment bond has been furnished to the Government pursuant to 40 U.S.C. chapter 31, subchapter III, Bonds, the Contractor shall promptly provide a copy of such payment bond to the requester.

52.229-3 Federal, State, and Local Taxes. (FEB 2013) 52.230-2 Cost Accounting Standards. (OCT 2015)

52.232-5 Payments Under Fixed-Price Construction Contracts. (MAY 2014)

52.230-6 Administration of Cost Accounting Standards. (JUN 2010)

J - List of Documents, Exhibits and Other Attachments

All attachments will be located on https://sam.gov/content/opportunities in the attachment section of the Solicitation. If you have any issues downloading the attachments contract the Contract Officer.

Attachment Number	Title
1	Site Map SERC Agrivoltaic Research Project
2	BGE Requirements and Interconnection Study
3	ERG Tech Memo Solar Stormwater
4	SERC Agrivoltaics Guidelines
5	Bid Schedule Base & Options

Attachment Number	Title
6	Davis-Bacon Act WD #: 6) Davis-Bacon Act WD #: MD20260082 (Building) and MD20260029 (Heavy, Highway)

K - Representations, Certifications, and Other Statements of Bidders

52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. (SEP 2007)

52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021)

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

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

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

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

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

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

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in

performance of work under a Federal contract. Nothing in the prohibition shall be construed to-

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

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

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

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

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

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

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

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

(i) For covered equipment-

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

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

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

(ii) For covered services-

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

manufacturer part number, or wholesaler number; and item description, as applicable); or

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

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

(i) For covered equipment-

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

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

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

(ii) For covered services-

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

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

(End of provision)

52.204-26 Covered Telecommunications Equipment or Services-Representation. (OCT 2020)

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

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

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

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

(End of provision)

52.204-29 Federal Acquisition Supply Chain Security Act Orders-Representation and Disclosures. (DEC 2023)

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

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

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

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

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

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

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

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

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

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

(4) Brand;

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

(6) Item description;

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

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

(End of provision)

52.209-5 Certification Regarding Responsibility Matters. (AUG 2020)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that-

(i) The Offeror and/or any of its Principals-

(A) Are [ ] are not [ ] presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have [ ] have not [ ], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks "have", the offeror shall also see 52.209-7, if included in this solicitation);

(C) Are [ ] are not [ ] presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision; and

(D) Have [ ], have not [ ], within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at 9.104-5(a)(2) for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and

required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) Examples. (i) The taxpayer has received a statutory notice of deficiency, under I.R.C. §6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. §6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. §6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(ii) The Offeror has [ ] has not [ ], within a 3-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

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

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

52.219-1 Small Business Program Representations. (FEB 2024)

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

Service-disabled veteran-owned small business (SDVOSB) concern means a small business concern-

(1)(i) Not less than 51 percent of which is owned and controlled by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

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

(2) A small business concern eligible under the SDVOSB Program in accordance with 13 CFR part 128 (see subpart 19.14).

(3) *Service-disabled veteran*, as used in this definition, means a veteran as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16), and who is registered in the Beneficiary Identification and Records Locator Subsystem, or successor system that is maintained by the Department of Veterans Affairs' Veterans Benefits Administration, as a service-disabled veteran.

Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program means an SDVOSB concern that-

(1) Effective January 1, 2024, is designated in the System for Award Management (SAM) as certified by the Small Business Administration (SBA) in accordance with 13 CFR 128.300; or

(2) Has represented that it is an SDVOSB concern in SAM and submitted a complete application for certification to SBA on or before December 31, 2023.

Service-disabled veteran-owned small business (SDVOSB) Program means a program that authorizes contracting officers to limit competition, including award on a sole-source basis, to SDVOSB concerns eligible under the SDVOSB Program.

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, consistent with 13 CFR 124.1001, means a small business concern under the size standard applicable to the acquisition, that-

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by-

(i) 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

(ii) Each individual claiming economic disadvantage has a net worth not exceeding the threshold at 13 CFR 124.104(c)(2) after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); 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 paragraphs (1)(i) and (ii) of this definition.

Veteran-owned small business concern means a small business concern-

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

(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 small disadvantaged business concern as defined in 13 CFR 124.1001.

(6) *Veteran-owned small business concern*. [*Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision*.] The offeror represents as part of its offer that it [ ] is, [ ] is not a veteran-owned small business concern.

(7) *SDVOSB concern*. [*Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(6) of this provision*.] The offeror represents as part of its offer that it [ ] is, [ ] is not an SDVOSB concern.

(8) *SDVOSB joint venture eligible under the SDVOSB Program*. [*Complete only if the offeror represented itself as a SDVOSB concern in paragraph (c)(7) of this provision*]. 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:__*.

(End of provision)

52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan--Certification. (AUG 2009)

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

Business operations means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

Marginalized populations of Sudan means--

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109-344) (50 U.S.C. 1701 note); and

(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

Restricted business operations means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate--

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

(b) *Certification*. By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(End of provision)

52.225-25 Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certifications. (JUN 2020)

52.236-28 Preparation of Proposals - Construction. (OCT 1997)

52.215-S0069 Contractor's Authorized Representative (January 2023)

The following person shall be contacted in the event of award for prompt contract notification and administration concerning specifications, schedules and other necessary contract matters:

(Name) _____

(Title) _____

(Street Address) _____

(City, State & Zip) _____

(Telephone & Facsimile No.) _____

(E-mail address) _____

L - Instructions, Conditions, and Notices to Bidders

52.204-6 Unique Entity Identifier. (OCT 2016)

52.216-1 Type of Contract. (APR 1984)

The SI intends to award a firm-fixed price Design-Build Contract based on Source Selection Procedures, in conjunction with the "Best Value" process.

A best value concept will be applied for evaluation of offers and selection of the successful Offeror for this procurement. SI will select the proposal that represents the best value based on the evaluation of technical factors and price, with technical factors weighted above price, within the range of acceptable and affordable prices. Therefore, the Offeror's proposal should contain the Offeror's best terms.

This Solicitation provides Offerors with instructions regarding the submission of their complete Proposals and the evaluation thereof. Utilizing the format prescribed within, Offerors are to provide the requested information and demonstrate their qualifications. Responses shall be as complete and accurate as possible and present data relative to the specific project under consideration. Offerors shall make every effort to present information clearly and concisely in accordance with the formats described herein.

Interested Offerors are required to submit their responses to this RFP by the due date established in this RFP. The SI will evaluate all the responses to this RFP in accordance with the criteria identified herein.

The solicitation shall require submission of technical and price proposals, which shall be evaluated separately. Offerors are required to attend a Pre-Proposal meeting with SI representatives on a mandatory guided site visit. The SI will reserve the right to make an award with or without discussions.

Questions, Clarifications, and Interpretations

Any prospective Offeror desiring an explanation or interpretation of the RFP, must request so in writing and shall direct such inquiries via email to: grantCA@si.edu .

Such requests must be received no later than **3:00 PM ET Monday May 18, 2026**, prior to the required proposal submission date, to allow a reply to reach all prospective Offerors before the submission of their proposals. Oral explanations or instructions given before award of a contract will not be binding. Any information given to a prospective Offeror concerning this solicitation will be furnished promptly to all other prospective Offerors as an amendment to this solicitation, if that information is necessary for submitting proposals, or if the lack of it would be prejudicial to other prospective Offerors.

Required Technical Data for Proposal Submittal

Offerors are advised that the required data will be utilized for review and evaluation and used for

determination of a "Quality Rating" by a Technical Evaluation Board and that all data submitted for consideration under this RFP will be reviewed only for the purposes required for evaluation and award. The SI will not make assumptions concerning the Offeror's intent, capabilities, facilities, or experiences. Clear identification is the sole responsibility of the Offeror.

Proposal Submittal Preparation

Instructions for the preparation and organization of the Qualification submission are included herein. The documents shall be submitted as summarized below and as further required by this solicitation.

Offerors are advised that hand carried submittals must be complete and must be received at the place designated in this RFP before the time and date set for receipt of the Qualifications submittal. Hand carried as well as mailed or electronically delivered submissions are subject to the Instructions to Offerors-Competitive Acquisition.

This RFP does not commit the SI to pay any costs incurred in the submission of any proposals, nor does it commit the SI to procure or contract for said services. The Contracting Officer is the only individual who can commit the SI to the expenditure of public funds in connection with this proposed procurement.

The content of the Offeror's submissions will remain confidential until an award is made. There will be no public opening of the submittals. The names of individuals providing reference information about an Offeror's past performance shall not be disclosed.

Submittal Organization

Firms having the capabilities to perform the services described herein are invited to respond by submitting the required technical information as specified herein. All submissions shall be in pdf format. Content shall be organized by tabs as noted below. The technical proposal must be submitted as a separate file from the cost proposal.

The submittal must be organized, using TABS, as follows:

Tab 1: Design-Build Team Overview

Tab 1.a: Key Team Members, Qualification and Experience

Tab 1.a.i: Key Personnel and Subcontractors

Tab 1.a.i: General Contractor – Key Personnel

Tab 1.a.i: Design Team - Key Personnel

Tab 1.a.ii: Qualification / Experience

Tab 1.a.ii: General Contractor – Qualifications / Experience

Tab 1.a.ii:	Design Team – Qualifications / Experience
Tab 1.a.iii:	Project Experience on Similar Projects
Tab 1.a.iii	General Contractor – Project Experience on Similar Projects
Tab 1.a.iii:	Design Team - Project Experience on Similar Projects
Tab 1.b	Past Performance
Tab 1.b.i:	General Contractor – Past Performance
Tab 1.b.ii:	Design Team – Past Performance
Tab 2:	Plan of Accomplishment and Schedule
Tab 3:	Concept Design Submission

Any information provided that does not pertain to the indicated evaluation criteria will not be evaluated.

Font size shall not be less than 12 point.

Sheet size of the submittal shall be 8 1/2 x 11 inches. Tabloid sheets (11 x 17 inches) will be allowed for charts and tables. Legibility, clarity, coherence, and content are important.

A cover sheet identifying the Offeror and the project shall be provided. The second sheet shall be a Table of Contents.

Materials submitted but not required by this solicitation (such as company brochures and equipment lists) shall be relegated to appendices.

Technical Submissions Requirements:

The Technical submittal shall include information as described previously and shall be presented in the sequence as requested above. Technical submissions shall be organized to correspond with the evaluation factors listed herein.

A project is considered similar when, based on the consensus judgment of the evaluating board members, the project has enough characteristics or similarities in common with the subject project that they could be determined comparable in size, scope, and complexity.

For each project, the Offeror shall be evaluated based upon performance as stated in the Past Performance submission. Past performance information will be provided directly from references provided by the contractor.

Offeror's Proposal must commit that design drawings and/or construction documents will be prepared by professional engineers registered in the State of Maryland. Offeror's Proposal must commit that the General Contractor and all subcontractors maintain and provide a copy of a valid Class A Contractor License in the State of Maryland.

Offeror's Financial Capacity to Complete the Project:

1) Proof of bonding capacity to SI requirements.

2) A letter of bond ability on your Surety's letterhead, confirming that you have the bonding capacity necessary for this project.

3) Firms must be registered in the System for Award Management (**sam.gov**) prior to Contract Award. Submittals will include their SAM Unique Entity Identification number (UEID) to help with the verification of SAM registration.

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 /.

(End of provision)

52.219-S0097R Small Business Subcontracting Plan (January 2023)

a) This provision does not apply to Small Business concerns.
b) The successful Offeror shall submit with their proposal a Small Business Subcontracting Plan which will be evaluated for compliance with FAR 19.7, statutory requirements and approval must be granted by the Office of Equal Opportunity.
c) Public Laws 95-507, 99-661, 100-656, and Executive Order 13360. The plans shall provide comprehensive responses to the requirements of the clause entitled, "Small Business Subcontracting Plan (FAR 52.219-9).
The plan, as a minimum, shall include a detailed discussion of the elements set forth in FAR Clause 52.219-9(d)(1) through (11) as it relates to small business and service-disabled veteran owned small business concerns.
d) Additionally, the proposed subcontract plan must demonstrate clear and concise knowledge and understanding of statutory requirements and regulations as it relates to Small Business and Service-disabled Small Business.
e) The proposed plan shall address efforts to broaden Small Business and Service-disabled

Small Business vendor base, outreach efforts, description of supplies and services to be subcontracted, identification of proposed firms who will be utilized, intended value to be subcontracted and percentage goals for the basic contract and each option year, (if any), which are realistic yet which are realistic yet challenging. Past performance and goal achievement for past performance shall be addressed.
For the purposes of this procurement, the following goals are considered reasonable and achievable during the term of the contract:
40 % a minimum of the planned subcontracting dollars to be placed with small business concerns. (The following are subsets of the small business goal):
7 % a minimum of the planned subcontracting dollars to be placed with service-disabled Veteran owned small business (SDVSB) concerns

M - Evaluation Factors for Award

52.215-S0095 - Basis of Award (Jun 2009)
The Smithsonian intends to make one award. The Smithsonian will determine which Offeror can best accomplish the requirements set forth in this solicitation. In making this determination, the Smithsonian will conduct an integrated assessment to determine the best value in accordance with the criteria outlined in this section. Award will be made to the Offeror whose proposal represents the best value to the Smithsonian, considering the evaluation criteria and the requirements of the solicitation. Consequently, award could be made to an Offeror other than that with the lowest price/estimated cost.

A Design-Build Team is being solicited through this Request for Proposal (RFP) process. A contract will be awarded to the firm that is determined to provide the best proposal, including price, technical and schedule considerations as noted in other sections of this RFP. Specific details relating to the Source Selection process are set forth in this RFP.

A. **All evaluation factors other than cost, when combined, are granted more weight than cost.**
The technical factors are listed below in relative order of importance:
(1) Design Build Team Past Performance
(2) Schedule and Plan of Accomplishment
(3) Concept Design Submission

Key Personnel shall be evaluated based on relevant training, demonstrated experience with projects of comparable size and complexity to the subject project. The Smithsonian reserves the right to assess the relevance of the experience and comparability of experience. Greater consideration will be given to teams members who have worked together in past projects, as well as to those whose qualifications exceed the minimum requirements, including prime contractors and subcontractors with experience working together.

Plan of Accomplishment shall be evaluated for completeness and demonstration of understanding of all required activities described herein. The Smithsonian reserves the right to give greater consideration to Plans of Accomplishment that accurately show interdependency and elimination of possible conflicts between and among the project activities set forth in the Plan. Greater consideration will be given to firms that submit a clear and comprehensive summary schedule, outlining major milestones, critical tasks, and key activities, along with their dependencies. Greater consideration will be given to firms that effectively address challenges associated with limited space, long lead times, and concurrent tasks.

B. Award of a contract shall be made to the responsive, responsible Offeror, whose combined cost and technical proposal is, in the opinion of the Contracting Officer, determined to be the most advantageous and in the best interest of the Smithsonian Institution.

C. Since the evaluation of cost will represent a portion of the total evaluation, it is possible that an Offeror might not be selected for award because of unreasonable, unsupportable, incomplete, inaccurate, or outdated cost proposal information.

D. Each Offeror's cost information will be evaluated for completeness and reasonableness to determine the Offeror's understanding of the work and ability to perform the contract. Reasonableness is evaluated by assessing the compatibility of proposed costs with the technical approach proposed. Completeness is evaluated by assessing the level of detail the Offeror provides in cost information for all requirements. The existence of adequate cost competition may support a determination of reasonableness. This includes both original submissions and final proposal revisions (if requested).

E. The Smithsonian intends to evaluate proposals and award a contract without discussions with Offerors. Therefore, the Offeror's initial proposal should contain the Offeror's best terms from a cost or price and technical standpoint. The Smithsonian reserves the right to conduct discussions if the Contracting Officer or his designee later determines them to be necessary for any reason.

F. If the Contracting Officer or his designee determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Discussions may be conducted with all Offerors determined to be in the competitive range. However, Offerors are advised that award may be made without discussion or any contact concerning the proposals received. Contractors should not assume that they will be contacted or afforded an opportunity to clarify, discuss, or revise their proposal.

G. The Smithsonian's contracting officer may contact individuals listed as Offeror's points of contact to obtain clarifications to the proposal. Clarifications may include, but are not limited to, communications to confirm information in the case of obvious typographical or scrivener errors. Offerors are responsible for submitting complete and accurate information in their proposals and should not assume they will be contacted or afforded an opportunity to clarify, discuss, or revise their proposal. Offerors are solely responsible for the content of their proposals.

H. Complete Information. Failure to furnish complete information requested in the RFP may cause Offeror to be judged non-responsive and immediately be removed from further consideration.

Source Selection Evaluation Factors for Award

The Smithsonian will conduct an integrated assessment to determine the best value in accordance with the criteria outlined in this section. Award will be given to the Offeror whose proposal represents the best value to the Smithsonian, considering the evaluation criteria and the requirements of the solicitation. Consequently, award could be made to an Offeror other than that with the lowest price/estimated cost.

Except when it is determined not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

The following criteria represent the technical factors that will be used by SI's Source Selection Evaluation Board in evaluating the Offeror's submission. The board may consult with NREL (National Renewable Energy Laboratory, now NLR inSPIRE), FEMP (Federal Energy Management Program), LLNL (Lawrence Livermore National Laboratory), LBNL (Lawrence Berkeley National Laboratory) and others in their evaluation of proposals. Only SI board members are allowed to vote in the evaluation process. Information submitted by Offerors will be evaluated to determine the contractor that offers the best value to SI.

Proposals will be evaluated against the following factors:
Technical Proposal

1. Design-Build Team
    a. Key Team Members, Qualifications, Experience on Similar Projects

b. Past Performance of the Construction and Design Firms

2. Schedule and Plan of Accomplishment
3. Concept Design Submission including the offeror's proposed site layout, panels, inverters, and other key components, as well as the estimated annual energy generation.

All evaluation factors other than cost, when combined, are granted more weight than cost. The technical factors are listed below in relative order of importance.

Cost Proposal

1. Schedule of Values and Contract Price

The Technical Proposal shall be directly responsive to the Statement of Work. The following specific material shall be included in the Technical Proposal to facilitate review, evaluation, and consideration. The proposed prices will be evaluated for reasonableness. Price reasonableness determines whether an Offeror's price is too high or too low. If there is not sufficient competition to determine reasonableness of price or there is a significant variance between offers, a cost/price analysis must be conducted.
Each Offeror's cost information will be evaluated for, completeness, and reasonableness to determine the Offeror's understanding of the work and ability to perform the contract. Reasonableness is evaluated by assessing the compatibility of proposed costs with the technical approach proposed. Completeness is evaluated by assessing the level of detail the Offeror provides in cost information for all requirements.

1 DESIGN-BUILD TEAM

All evaluation factors for the Design-Build Team, when combined, are significantly more important than the combined factors for the individual General Contractor or Design Team members..

(a) Key Team Members, Qualifications, and Experience on Similar Projects

The following technical factors will be evaluated:

(i) Key Personnel and Subcontractors Qualifications / Experience of Key Personnel
GENERAL CONTRACTOR
DESIGN TEAM

(iii) Project Experience on Similar Projects
GENERAL CONTRACTOR
DESIGN TEAM

Key Personnel and Subcontractors

Describe the proposed organization of the Design-Build Team that will work on this project. Provide an organizational chart identifying lines of authority and supervisory responsibilities. Identify items of work to be performed by the prime contractor and their percentage of the total project. Identify major subcontractors and indicate how they fit into the organizational structure. List prior projects where the Offeror, subcontractors, and other Design-Build Team members have worked together. The Smithsonian will evaluate technical proposals more favorably when documentation is provided to show that distinct Design-Build Team members have worked together on prior successful projects of similar scope.
Provide the name of one subcontractor (or indicate that the work will be performed by the prime) for each element of work listed below. Offeror will be expected to use the subcontractor listed for each element of work unless written approval for change is received from the Contracting Officer in accordance with the contract clause entitled SUBCONTRACTORS. Failure to indicate who will perform the work for each item below will result in lower scores during evaluation of the proposal.

1) Civil, Sitework, Paving
2) Electrical and Solar Panel Installation

Provide the names and titles of key Design-Build Team personnel that will work on this project. Submit an organizational chart identifying lines of authority and supervisory responsibilities, and resumes for each key person on the proposed Project Team as defined below:

1) Project Manager
2) Project Superintendent (including Quality Control and Safety functions)
3) Lead Civil Engineer

4) Lead Electrical Engineer

Offeror's Proposal must contain a commitment to maintain the evaluated Design-Build Team intact through the entirety of design and construction for the project. Any requested substitutions of key personnel must be approved by the SI and must demonstrate relevant equal personnel qualifications.

(ii) Qualifications / Experience of Key Personnel

This factor considers the experience and qualifications of the proposed key staff of the General Contractor and the Design Team, and how the Offeror organizes and manages the project team. Project Manager's experience directing similar project work and that the key personnel and subcontractors identified have the qualifications and experience in all areas necessary to effectively perform the required work.

The Offeror shall submit at a minimum two (2) references for each Design Team member. References should be provided for all key personnel as identified below under "Design Team Personnel". The Offeror is responsible to ensure that contact information is current and reliable. The Smithsonian will consider information provided by reference as well as other relevant information from other sources when evaluating the Offeror's past experience. If negative information is received from sources not noted in the Offeror's proposal, the Offeror will be given an opportunity to respond.

2. GENERAL CONTRACTOR

Each Offeror shall submit an organizational chart for the General Contractor, and resumes for each key person on the proposed General Contractor team as defined below:

2) Project Manager
3) Project Superintendent

Resumes should be no longer than two (2) pages per individual, be attributable to the person named on the resume, and must include:

1) Name, title, address, and telephone numbers.
2) Educational background, including technical education.
3) Work experience covering the last five years or at a minimum the last five project assignments of significant duration (18 months or more). Identify the specific role and title held for each project.
4) Membership in professional societies.
5) Professional registrations, licenses, or certifications.
6) Publications, awards or special achievements of a technical nature.
7) Length of time employed with current firm.
8) Percentage of time available for this project.
9) Duties of each key individual within the Project Team must be clearly defined.
10) Description of training and experience in respective areas of expertise.

DESIGN TEAM

Each Offeror shall submit an organizational chart and resumes for each key person on the proposed Design Team as defined below:

1) Design Team organizational chart
2) Project Manager
3) Civil Engineer
4) Electrical Engineer

Resumes should be no longer than two (2) pages per individual, be attributable to the person named on the resume, and must include:

1) Name, title, address, and telephone numbers.
2) Educational background, including technical education.

3) Work experience covering the last five years or at a minimum the last five project assignments of significant duration (18 months or more). Identify the specific role and title held for each project.
4) Membership in professional societies.
5) Professional registrations, licenses, or certifications.
6) Publications, awards or special achievements of a technical nature.
7) Length of time employed with current firm.
8) Percentage of time available for this project.
9) Duties of each key individual within the Project Team must be clearly defined.
10) Description of training and experience in respective areas of expertise.

(iii) Project Experience on Similar Projects

This factor considers the extent of the Design-Build Project Team's (General Contractor and Design Team) past experience and the quality of the Project Team's past performance on projects of similar size and complexity. The Offeror shall submit information on at least two (2) projects of similar scope and complexity for the firms and the Project Team members. Contractors and subcontractors must have demonstrable experience in designing and delivering projects similar in scope and size. Demonstrated experience of the General Contractor and the Design Team working together for the successful delivery of similar projects will be more favorably evaluated.

GENERAL CONTRACTOR

Each Offeror shall provide:

1) A list of three (3) similar projects completed over the last five (5) years.
2) Narrative summaries of the three (3) similar projects listed, performed within the past five (5) years, that demonstrate the Offeror's capabilities, technical expertise, and experience managing complex projects with reference to considerations of timeliness and technical success. Relevant photos are required for each project submitted. Limit the summaries to one (1) page each. Limit the photos to no more than three (3) pages.
3) Include for each project submitted, title and location, project summary including size, contract award amount and final contract amount including all changes, dollar value of work self-performed and the percentage it represents of the final contract amount and project completion date.

DESIGN TEAM
The Offeror shall submit information on at least two (2) projects of similar scope and complexity. The Offeror must provide detailed information on two (2) projects of similar scope and complexity for each Project Team member that best illustrates that team member's skills and capabilities. The Design Team must have demonstrated experience in designing and delivering projects similar in scope and size.

Past Performance
In the case of an Offeror without a record of relevant past performance or for whom information on past performance is not available, the Offeror must not be evaluated favorably or unfavorably on past performance.

The Offeror shall provide a minimum of two (2) references for each similar project. The Offeror is responsible for ensuring that contact information is current and reliable. The Smithsonian will consider information provided by reference as well as other relevant information from other sources when evaluating the Offeror's past experience. If negative information is received from sources not noted in the Offeror's proposal, the Offeror will be given an opportunity to respond.

This factor considers the quality of the General Contractor's past performance, within the last five (5) years, in performing contracts for construction with regard to considerations as technical success and customer satisfaction, and the extent of the proposed Design Team's past experience and the quality of the

past performance. This factor also considers the quality of the Offeror's performance in carrying out the work required, specifically, workforce management, and scheduling.

GENERAL CONTRACTOR

The Offeror demonstrates itself as a construction business providing verifiable information and references for three (3) projects wherein the offeror was the prime contractor, and which were completed within the last five (5) years that:

1) Demonstrate ability to meet project budget constraints by managing cost changes.
2) Demonstrate ability to effectively coordinate trades.
3) Demonstrate ability to complete projects within the approved schedule.
4) Demonstrate ability to ensure high degree of trade's craftsmanship.
5) Demonstrate success in achieving subcontractor goals.
6) Demonstrate projects of a similar size/complexity
7) Where possible identify past projects in the Past Performance Information Retrieval System (PPIRS) by Project Title, Agency Client Name, and PPIRS Contract Number.

DESIGN TEAM

Each Offeror shall provide:

1) Narrative summaries of two (2) similar projects, performed within the past five (5) years that demonstrate the Offeror's capabilities, technical expertise, and experience managing complex projects with reference to considerations of timeliness and technical success. Relevant photos are required for each project submitted. The projects should be as similar to the project as possible. Limit the summaries to one (1) page each. Limit the project photos to three (3) pages.
2) Include for each project submitted, title and location, project summary including size, contract award amount and final contract amount including all changes, dollar value of work self-performed and the percentage it represents of the final contract amount and project completion date.

2. SCHEDULE / PLAN OF ACCOMPLISHMENT

The Schedule / Plan of Accomplishment shall include, at a minimum:

A. A time scaled summary schedule identifying design and construction logic; design, fabrication, and installation milestones; long lead / key equipment or material orders and deliveries; and any activities that may interrupt building or site operations. The schedule should highlight all major scope activities. The summary should contain activities that show sequence, duration, and interdependency. Identify all critical elements of the work, including design development/submissions, equipment submittal review, important construction and other designated milestones, special events, commissioning events and other items associated with time impacts. Clearly show the critical path. Contract Time for all Base Bid Work shall include the commencement of some on-site work within 60 days of Notice to Proceed, while design work may still be ongoing, and the completion and delivery of the commissioned system within four hundred thirty-four (434) calendar days from Notice-to-Proceed. If the Offeror cannot develop and commit to a schedule to complete all work within 434 calendar days, the Offeror shall submit a schedule with a clearly designated duration which will become a contract requirement if the proposal is accepted for award.

B. Provide a preliminary Site Coordination and Logistics Work Plan, including:
   1. A narrative discussion of how the Offeror will ensure timely completion.
   2. Preparatory actions, including staging and access to site.
   3. Protection of existing features and adjacent areas to prevent construction-related damage, including maintenance of site during construction.
   4. Major equipment to be utilized.
   5. Sequence of major elements of work.
   6. Maintenance of traffic.
   7. Other information required to demonstrate how work will be accomplished.
   8. Preliminary Quality Control Plan / Procedures
   9. Preliminary Safety Plan including Company policies on Safety and current incident rates.
   10. Provide a procedural and administrative plan for progress reporting, cost accounting, shop drawing and product submittals controls.

C. Implementation Plan – Provide an implementation plan addressing the following at a minimum:
   a. Describe work methodology planned for this project that will deliver a superior quality product including but not limited to quality control, coordination drawings, coordination of built elements and systems, hazardous material abatement, implementation of sustainable design, and commissioning. Scheduling of work including but not limited to site work, array installation, electrical work, fence installation, and other requirements.

   b. Compliance with the BGE interconnection study (attachment 2).

   c. Provide a narrative of your proposed approach to schedule management to include but not be limited to:
      i. Scheduling and Project Management software
      ii. Owner changes
      iii. Change order compensation
      iv. Cross referencing
      v. Float
      vi. Coordination responsibility
      vii. Field Condition Verification
      viii. Scheduling expertise
      ix. Demonstrated capabilities for schedule management on similar projects.

D. Project Completion and Warranty Transfer / Turnover Plan – Provide a preliminary plan for the training and instruction of Smithsonian Institution personnel in the operation and maintenance of new systems. The plan should include the manner and method for the turnover of all operation and training manuals and specific warranties and guarantees for equipment and materials to be provided under the contract.

E. Safety - Provide the current workman compensation rates, insurance certificates and insurance modifiers assigned for your company. Provide a preliminary job site safety plan. Describe corporate policy on safety, and frequency of safety training.

F. Contract submission and schedule requirements include:

Submission/Phase/Activity	**Completion by Number of Weeks After NTP Weeks are Total/Cumulative, not additive**
Site Specific Safety Plan	1
Schedule of Estimated Values	2
Project Schedule	3
Basis of Design Document	4
50% design	8
Design review (by SI)	10
100% design	12
Design review (by SI)	14
60	60
Testing and Commissioning	60
TOTAL	174

3 CONCEPT DESIGN SUBMISSION

The offerors shall prepare and submit as part of their technical proposal, preliminary concept design information, including:

- A site map showing the planned layout of the solar array(s) and locations of connection points, fencing, access gates, roadways, and other key features.
- A list of the major equipment components with the associated manufacturer's specifications, including the solar photovoltaic panels/modules, inverters, transformers, and mounting system.

4 COST PROPOSAL

4.1 Schedule of Values and Contract Price

Provide a comprehensive Schedule of Values that includes all work items. The format for the Schedule of Values shall be the Construction Specifications Institute (CSI) divisions of work. Break down the Schedule of Values into the Thirty-Three CSI divisions. For each division separate Prime and Subcontractor bids. Within Prime and Subcontractor, identify material and labor costs. Markups for subcontractors and sales

tax shall be indicated as appropriate. The sums of these divisions shall be shown along with Prime's markup for overhead and profit.

Aggregate the total proposed Contract Price in the Schedule of Values. Identify the items of cost in the Schedule of Values which will be performed with the Offeror's own force.

The Cost Proposal shall be structured to reflect the following:

BASE BID:

- Design, permitting, construction and commissioning of all site infrastructure improvements and a 2.0 MW DC agrivoltaics system interconnected to the BGE electrical distribution system. Note: system O&M is not included in the base bid.

OPTION 1:

- Operation and Maintenance of the solar agrivoltaics System for one year, with a further option for up to four (4) additional years.

OPTION 2:

Agricultural Water Well System: A well and distribution system to each array suitable for year-round usage for agricultural watering purposes only as specified above.