Request for Proposal (RFP)

Army Campus Style Dining Venue (CSDV) 2.0(C) - HI

RFP Number: NAFBA1-26-R-0028
Issue Date: 18 April 2026

Issued By:
Department of the Army
Installation Management Command (IMCOM)
HQ DFMWR, NAF Contracting Division
2405 Gun Shed Road, Building 2261, Rm 1200
JBSA Fort Sam Houston, Texas 78234-1223

Installation Management Command integrates and delivers
base support to enable readiness for a globally-responsive Army

We are... The Army's Home

TABLE OF CONTENTS

SECTION A – SOLICITATION/CONTRACT FORM 1
A.1 SOLICITATION/CONTRACT FORM 1
SECTION B – SUPPLIES OR SERVICES AND PRICE/COSTS 2
B.1 OBJECTIVE 2
B.2 ELIGIBLE PATRONS 2
B.3 FEE SCHEDULE 5
B.4 COORDINATED SITE VISITS & PRE-PROPOSAL CONFERENCE 8
B.5 PRIVACY ACT STATEMENT, 5 U.S.C. §552a 8
SECTION C – DESCRIPTION/SPECIFICATIONS/WORK STATEMENTS 9
C.1 DEFINITIONS/ACRONYMS 9
C.2 GENERAL INFORMATION 12
C.3 IDIQ DELIVERY/TASK ORDERS 12
C.4 PERIOD OF PERFORMANCE 13
C.5 LOCATIONS 15
C.6 OPERATIONS 15
C.6.1 NUTRITIOUS FOOD AND BEVERAGE SERVICES 16
C.6.2 PATRONS 18
C.6.3 SYSTEM OF ACCOUNTS 18
C.6.4 GOVERNMENT FURNISHED EQUIPMENT (GFE) 20
C.6.5 INFORMATION TECHNOLOGY 22
C.6.6 NUTRITION 23
C.6.7 ALCOHOL 24
C.6.8 MARKETING 24
C.7 FACILITY(IES) 24
C.7.1 BUILDOUT/RENOVATION 24
C.7.2 MAINTENANCE AND REPAIR 25
C.7.3 GROUNDS AND OTHER MAINTENANCE 26
C.7.4 UTILITIES 26
C.7.5 REAL PROPERTY REVOCABLE LICENSE 27
C.8 DELIVERY OF FOOD AND WATER 27
C.9 MEETINGS / BRIEFINGS 27
C.10 RELATIONSHIP BETWEEN FUND, CONTRACTOR AND CONTRACTOR PERSONNEL 27
C.11 U.S. DEPARTMENT OF LABOR WAGE DETERMINATIONS 28
C.12 CONTRACTOR EMPLOYEE ANTI-TERRORISM (AT)/OPERATIONAL SECURITY TRAINING REQUIREMENTS FOR WORKING ON GARRISIONS 28
C.13 TRANSITION SCHEDULE 29
C.14 QUALITY CONTROL 30
C.15 QUALITY ASSURANCE 30
C.16. CUSTODIAL SERVICES 30
C.17 CASH TRANSACTION ROUNDING POLICY 30
C.18. EXECUTIVE ORDER “PRIORITIZING WARFIGHTER IN DEFENSE CONTRACTING” 31
C.19. CASHLESS VENUES 31
SECTION D – PACKING AND MARKING 32
D.1 PACKAGING (FOOD PRODUCTS) 32
D.2 PACKAGING (REFRIGERATED, FROZEN AND DRIED PRODUCTS) 32
D.3 PRESERVATION, PACKAGING, PACKING AND SHIPPING 32
SECTION E – INSPECTION AND ACCEPTANCE 33
E.1 ACCEPTANCE OF SERVICES 33
E.2 INSPECTION (FOOD ITEMS) FROM SOURCES 33
E.3 INSPECTION (DELIVERY VEHICLES) 33
E.4 CODED DATA 33
E.5 RIGHT OF INSPECTION 33

TABLE OF CONTENTS

E.6 INSPECTION OF SERVICES 34
E.7 INSPECTION OF CONSTRUCTION. *Reference Section J.16 – Construction Guide V3.* 34
SECTION F – DELIVERIES OF PERFORMANCE 35
F.1 DELIVERABLES AND ONGOING OPERATIONS 35
F.2 PLACE OF PERFORMANCE 36
F.3 CONTRACT PERIOD OF PERFORMANCE 36
F.4 FEDERAL HOLIDAYS 36
F.5 STOP-WORK ORDER 36
F.6 SUSPENSION OF WORK 37
SECTION G – CONTRACT ADMINISTRATION DATA 38
G.1 CONTRACT ADMINISTRATION 38
G.2 APPOINTMENT OF A CONTRACTING OFFICER'S REPRESENTATIVE (COR) 38
G.3 MODIFICATIONS 38
G.4 FINANCIAL RETURN 38
G.5 PAYMENT TYPE / FREQUENCY OF PAYMENT 38
SECTION H – SPECIAL CONTRACT REQUIREMENTS 39
H.1 FEDERAL AND STATE TAXES 39
H.2 RELEASE OF NEWS INFORMATION 39
H.3 ADVERTISING 39
H.4 PHYSICAL SECURITY 39
H.5 INSURANCE 39
H.6 SECURITY 40
H.7 IDENTIFICATION FOR CONTRACTOR'S EMPLOYEES 41
H.8 REPRESENTATION 41
H.9 GRATUITIES 41
H.10 FORCE PROTECTION 41
H.11 SAVE HARMLESS 42
H.12 PROHIBITED ACTIVITIES 42
H.13 SAFETY REQUIREMENTS 42
H.14 NOTICE OF INCIDENTS 43
H.15 DAMAGE / LOSS 43
H.16 SAFEGUARDING OF CONTRACTOR'S CASH OR EQUIVALENT CASH DEPOSITS ON ARMY INSTALLATIONS 43
H.17 TRANSFERS OR ASSIGNMENTS 43
H.18 REMOVAL OF CONTRACTOR'S EMPLOYEES 43
H.19 DATA OWNERSHIP 44
H.20 KEY CONTROL 44
H.21 PHASE-IN PERIOD 44
H.22 PHASE-OUT PERIOD 44
H.23 PROHIBITION ON PROCUREMENT OF CERTAIN ITEMS CONTAINING 45
SECTION I – CONTRACT CLAUSES, NONAPPROPRIATED FUND 46
I.1 DEFINITIONS (JUN 2025) BI.001 46
I.2 NONAPPROPRIATED FUND INSTRUMENTALITY (NOV 2004) BI.002 55
I.3 PROTECTING THE NAFI'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED OR PROPOSED FOR DEBARMENT (MAR 2020) BI.004 55
I.4 COMMENCEMENT, PROSECUTION AND COMPLETION OF WORK (NOV 2004) BI.006 55
I.5 INVOICES (MAR 2020) BI.010 55
I.6 EXAMINATION OF RECORDS (MAR 2020) BI.011 56
I.7 INSURANCE-WORK ON A GOVERNMENT INSTALLATION AND/OR OTHER NAFI LOCATIONS (MAR 2020) BI.012 56
I.8 ORDER OF PRECEDENCE (NOV 2004) BI.013 57
I.9 ORDERING (NOV 2004) BI.016 57

TABLE OF CONTENTS

I.10 INDEFINITE QUANTITY (NOV 2004) BI.020 57
I.11 OPTION TO EXTEND SERVICES (NOV 2004) BI.021 58
I.12 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2020) BI.022 58
I.13 NOTICE TO THE NAFI OF LABOR DISPUTES (NOV 2004) BI.023 58
I.14 CONTRACT WORK HOURS AND SAFETY STANDARDS-OVERTIME COMPENSATION (MAR 2020) BI.024 58
I.15 CONSTRUCTION WAGE RATE REQUIREMENTS (MAY 2014) BI.025 58
I.16 WITHHOLDING OF FUNDS (MAY 2014) BI.026 60
I.17 PAYROLLS AND BASIC RECORDS (MAY 2014) BI.027 60
I.18 APPRENTICES AND TRAINEES (DEC 2010) BI.028 60
I.19 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (NOV 2004) BI.029 60
I.20 SUBCONTRACTS (LABOR STANDARDS) (MAY 2014) BI.030 60
I.21 CONTRACT TERMINATION-DEBARMENT (MAY 2014) BI.031 60
I.22 COMPLIANCE WITH CONSTRUCTION WAGE RATE REQUIREMENTS AND RELATED REGULATIONS (MAY 2014) BI.032 60
I.23 DISPUTES CONCERNING LABOR STANDARDS (NOV 2004) BI.033 60
I.24 CERTIFICATION OF ELIGIBILITY (NOV 2004) BI.034 60
I.25 LABOR STANDARDS FOR CONSTRUCTION WORK-FACILITIES CONTRACTS (DEC 2017) BI.035 60
I.26 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (MAR 2020) BI.040 60
I.27 SERVICE CONTRACT LABOR STANDARDS (MAY 2014) BI.041 60
I.28 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDS-PRICE ADJUSTMENT FOR MULTIPLE YEAR AND OPTION CONTRACTS (MAY 2014) BI.042 65
I.29 EQUAL OPPORTUNITY FOR VETERANS (MAR 2020) BI.045 65
I.30 WASTE REDUCTION (MAR 2020) BI.047 66
I.31 MAINTENANCE, SERVICE, REPAIR, OR DISPOSAL OF REFRIGERATION EQUIPMENT AND AIR CONDITIONERS (MAR 2020) BI.048 66
I.32 PRIVACY ACT NOTIFICATION (NOV 2004) BI.049 67
I.33 PRIVACY ACT (NOV 2004) BI.050 67
I.34 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (DEC 2010) BI.055 68
I.35 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2010) BI.057 68
I.36 PATENT INDEMNITY (DEC 2010) BI.058 68
I.37 PATENT INDEMNITY-CONSTRUCTION CONTRACTS (DEC 2010) BI.059 68
I.38 PERFORMANCE AND ~~PAYMENT~~ BONDS-CONSTRUCTION (MAR 2020) BI.064 68
I.39 TAXES (NOV 2004) BI.067 69
I.40 PAYMENTS (MAR 2020) BI.068 69
I.41 DISCOUNTS FOR PROMPT PAYMENT (NOV 2004) BI.070 69
I.42 EXTRAS (NOV 2004) BI.073 70
I.43 PROMPT PAYMENT (MAR 2020) BI.074 70
I.44 MANDATORY INFORMATION FOR ELECTRONIC FUNDS TRANSFER (MAR 2020) BI.077 70
I.45 DISPUTES (NOV 2004) BI.079 70
I.46 DIFFERING SITE CONDITIONS (NOV 2004) BI.081 71
I.47 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (NOV 2005) BI.082 71
I.48 MATERIAL AND WORKMANSHIP (NOV 2004) BI.083 71
I.49 SUPERINTENDENCE BY THE CONTRACTOR (NOV 2004) BI.084 71
I.50 PERMITS AND RESPONSIBILITIES (NOV 2004) BI.085 71
I.51 OTHER CONTRACTS (NOV 2004) BI.086 71
I.52 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (NOV 2004) BI.087 71
I.53 OPERATIONS AND STORAGE AREAS (NOV 2004) BI.088 71
I.54 USE AND POSSESSION PRIOR TO COMPLETION (NOV 2004) BI.089 72

TABLE OF CONTENTS

I.55 CLEANING UP (NOV 2004) BI.090 72
I.56 ACCIDENT PREVENTION, FIRE PROTECTION AND SANITATION (NOV 2005) BI.091 72
I.57 AVAILABILITY AND USE OF UTILITY SERVICES (MAR 2020) BI.092 72
I.58 SCHEDULES FOR CONSTRUCTION CONTRACTS (NOV 2004) BI.093 72
I.59 LAYOUT OF WORK (NOV 2004) BI.094 73
I.60 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (MAR 2020) BI.0950 73
I.61 PRECONSTRUCTION CONFERENCE (NOV 2004) BI.100 73
I.62 BANKRUPTCY (NOV 2004) BI.102 73
I.63 CHANGES (NOV 2004) -- ALTERNATE I (NOV 2004) BI.104 73
I.64 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (MAR 2020) BI.107 74
I.65 NAFI PROPERTY (NOV 2004) BI.109 74
I.66 COMMERCIAL WARRANTY (NOV 2004) BI.111 75
I.67 WARRANTY OF CONSTRUCTION (NOV 2004) BI.112 75
I.68 LIMITATION OF LIABILITY-SERVICES (NOV 2004) BI.114 75
I.69 TERMINATION FOR CONVENIENCE (MAR 2020) BI.1180 75
I.70 NO-FAULT TERMINATION (NOV 2004) BI.119 76
I.71 DEFAULT (FIXED PRICE SUPPLY AND SERVICE) (NOV 2004) BI.120 76
I.72 CLAUSES INCORPORATED BY REFERENCE (DEC 2021) BI.121 77
I.73 DEFAULT (FIXED-PRICE CONSTRUCTION) (NOV 2004) BI.122 77
I.74 CONVICT LABOR (NOV 2004) BI.123 78
I.75 ASSIGNMENT OF CLAIMS (NOV 2004) BI.124 78
I.76 NONWAIVER OF DEFAULTS (NOV 2004) BI.125 78
I.77 CHANGES-CONSTRUCTION (NOV 2004) BI.126 78
I.78 EMPLOYMENT REPORTS ON VETERANS (MAR 2020) BI.133 78
I.79 EMPLOYMENT ELIGIBILITY VERIFICATION (MAR 2020) BI.138 78
I.80 BUY AMERICAN ACT - CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (MAR 2020) BI.140 81
I.81 ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS (JAN 2022) BI.141 84
I.82 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011) BI.142 88
I.83 ESTABLISHING PAID SICK LEAVE FOR FEDERAL CONTRACTORS (DEC 2016) BI.145 88
I.84 DISCLOSURE OF INFORMATION (JUL 2017) BI.146 91
I.85 LIMITATIONS ON THE USE OR DISCLOSURE OF THIRD-PARTY CONTRACTOR REPORTED CYBER INCIDENT INFORMATION (MAR 2020) BI.147 91
I.86 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (MAR 2020) BI.148 93
I.87 CLOUD COMPUTING SERVICES (MAR 2020) BI.149 96
I.88 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUL 2019) BI.150 96
I.89 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2020) BI.151 98
I.90 PRIVACY TRAINING (JAN 2020) BI.152 100
I.91 COMBATING TRAFFICKING IN PERSONS (MAR 2020) BI.153 101
I.92 CONTINUATION OF ESSENTIAL CONTRACTOR SERVICES (MAR 2020) BI.154 107
I.93 PROHIBITION ON A BYTEDANCE COVERED APPLICATION (JUN 2023) BI.155 108
I.94 DISPLAY OF HOTLINE POSTERS (APR 2023) BI.156 108
I.95 UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (APR 2023) BI.157 109
I.96 RESTRICTION ON ACQUISITION OF PERSONAL PROTECTIVE EQUIPMENT AND CERTAIN OTHER ITEMS FROM NON-ALLIED FOREIGN NATIONS (APR 2023) BI.158 110
I.97 PROHIBITION ON CERTAIN PROCUREMENTS FROM THE XINJIANG UYGHUR AUTONOMOUS REGION (APR 2023) BI.159 111
I.98 PAYMENT CARD INDUSTRY DATA SECURITY STANDARDS (PCI-DSS) COMPLIANCE -

TABLE OF CONTENTS

CONCESSIONAIRES (JUN 2025) BI.161 111
I.99 RESTRICTION ON PAPER STRAWS (JUN 2025) BI.162 111
SECTION J – LIST OF ATTACHMENTS 112
J.1 EXAMPLE HOLIDAY MENU (THANKSGIVING, CHRISTMAS, AND ARMY BIRTHDAY) 112
J.2 ESM NUMBERS BY GARRISON 112
J.3 U.S. ARMY GARRISON (USAG) HI – SCHOFIELD BARRACKS – ATTACHMENTS 112
J.3.1 BLDG 780 - GARRISON SPECIFIC INFORMATION 112
J.3.1.1 BLDG 780 – GARRISON EARNINGS AND EXPENDITURE REPORT 112
J.3.1.2 BLDG 780 – DAILY HEADCOUNT 112
J.3.1.3 BLDG 780 – MASTER MENU - TBD 112
J.3.2 SCHOFIELD BARRACKS - WAGE DETERMINATION - SERVICE POSITIONS 112
J.3.3 SCHOFIELD BARRACKS - CONSTRUCTION WAGE RATE 112
J.3.4 BLDG 780 - BUILDING DRAWING 112
J.3.5 BLDG 780 - GOVERNMENT FURNISHED EQUIPMENT LISTING 112
J.4 USAG HI – BLDG 503, FORT SHAFTER – ATTACHMENTS - TBD 113
J.4.1 FORT SHAFTER - GARRISON SPECIFIC INFORMATION 113
J.4.1.1 FORT SHAFTER - GARRISON EARNINGS AND EXPENDITURE REPORT 113
J.4.1.2 FORT SHAFTER – DAILY HEADCOUNT 113
J.4.1.3 FORT SHAFTER – MASTER MENU 113
J.4.2 FORT SHAFTER - WAGE DETERMINATION – SERVICE POSITIONS 113
J.4.3 FORT SHAFTER - CONSTRUCTION WAGE RATE 113
J.4.4 FORT SHAFTER – DFAC BUILDING DRAWING 113
J.4.5 FORT SHAFTER – DFAC GOVERNMENT FURNISHED EQUIPMENT LISTING 113
J.5 USAG HI – BLDG 2085, SCHOFIELD BARRACKS – ATTACHMENTS - TBD 113
J.5.1 BLDG 2085 - SPECIFIC INFORMATION 113
J.5.1.1 BLDG 2085 - GARRISON EARNINGS AND EXPENDITURE REPORT 113
J.5.1.2 BLDG 2085 – DAILY HEADCOUNT 113
J.5.1.3 BLDG 2085 – MASTER MENU 113
J.5.4 BLDG 2085 – DFAC BUILDING DRAWING 113
J.5.5 BLDG 2085 – DFAC GOVERNMENT FURNISHED EQUIPMENT LISTING 113
J.6 USAG HI – BLDG 102, WHEELER AAF – ATTACHMENTS - TBD 113
J.6.1 BLDG 102 - GARRISON SPECIFIC INFORMATION 113
J.6.1.1 BLDG 102 - GARRISON EARNINGS AND EXPENDITURE REPORT 113
J.6.1.2 BLDG 102 – DAILY HEADCOUNT 113
J.6.1.3 BLDG 102 – MASTER MENU 113
J.6.2 BLDG 102 - WAGE DETERMINATION – SERVICE POSITIONS 113
J.6.3 BLDG 102 - CONSTRUCTION WAGE RATE 114
J.6.4 BLDG 102 - DFAC BUILDING DRAWING 114
J.6.5 BLDG 102 - GOVERNMENT FURNISHED EQUIPMENT LISTING 114
J.7 USAG HI – BLDG 357 – SCHOFIELDS BARRACKS – ATTACHMENTS - TBD 114
J.7.1 BLDG 357 - GARRISON SPECIFIC INFORMATION 114
J.7.1.1 BLDG 357 - GARRISON EARNINGS AND EXPENDITURE REPORT 114
J.7.1.2 BLDG 357 – DAILY HEADCOUNT 114
J.7.1.3 BLDG 357 – MASTER MENU 114
J.7.4 BLDG 357 – DFAC BUILDING DRAWING 114
J.7.5 BLDG 357 - DFAC GOVERNMENT FURNISHED EQUIPMENT LISTING 114
J.7.5.1 BLDG 357 – DFAC GFE REPLACEMENT LIST 114
J.8 NUTRITIONAL RESOURCES 114
J.9 FINANCIAL DATA INCLUDING SALES VOLUMES FOR EACH SELECTED DFAC – SEE SECTION J.3. 115
J.10 PAST ANNUAL COST FOR THE REPAIRS & MAINTENANCE OF EQUIPMENT AT EACH SELECTED DFAC 115

TABLE OF CONTENTS

J.11 SAMPLE UTILITY RATES, EQUIPMENT COSTS, AND/OR OTHER EXPENSES CURRENTLY USED TO OPERATE DFACs 115
J.12 SAMPLE REFUSE RATES 115
J.13 FOOD PURCHASES FOR SELECTED DFACS 115
J.14 EXAMPLE OF ACTION STATIONS IN AN ARMY FOOD OPERATION 115
J.15 FOOD AND NUTRITIONAL STANDARDS 115
J.16 CONSTRUCTION GUIDE V3 115
J.17 OMB MEMORANDUM M-17-12 115
J.18 OMB MEMORANDUM M-16-14 115
J.19 VALUE DOLLAR INFORMATION 115
J.20 TRANSACTION DATA CAPTURE REPORT 115
SECTION K – REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS 116
K.1 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (NOV 2004) BK-001 116
K.2 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (NOV 2004) BK.004 117
K.3 PLACE OF PERFORMANCE (NOV 2004) BK-007 117
K.4 AUTHORIZED NEGOTIATORS 118
K.5 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (DEC 2010) (BK.017) 118
K.6 ELECTRONIC AND INFORMATION TECHNOLOGY STANDARDS 118
K.7 REPRESENTATION FOR USE OF CLOUD COMPUTING (JUL 2017) (BK.021) 119
K.9 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2020) BK.022 119
K.10 CERTIFICATION REGARDING TRAFFICKING IN PERSONS (MAR 2020) BK.023 121
K.11 NOTICE OF CONTINUATION OF ESSENTIAL CONTRACTOR SERVICES (MAR 2020) (BK.024) 122
K.12 COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES (AUG 2020) BK.025 122
K.13 BUY AMERICAN CERTIFICATE (DEC 2022) BK.010 123
K.14 PROHIBITION ON PROCUREMENT OF CERTAIN ITEMS CONTAINING PERFLUOROOCTANE SULFONATE OR PERFLUOROOCTANOIC ACID - REPRESENTATION (APR 2023) (BK.028) 123
SECTION L – INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS 124
L.1 DEFINITIONS (NOV 2004) (BL.001) 124
L.2 AMENDMENTS TO SOLICITATIONS (NOV 2004) (BL.004) 124
L.3 SUBMISSION OF OFFERS (NOV 2004) (BL.007) 124
L.4 EXPLANATION TO PROSPECTIVE OFFERORS (NOV 2004) (BL.008). 124
L.5 FAILURE TO SUBMIT OFFER (NOV 2004) (BL.010). 125
L.6 PREPARATION OF OFFERS (NOV 2004) (BL.013) 125
L.7 SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE (NOV 2004) (BL.020) 125
L.8 INSTRUCTIONS TO OFFERORS-COMPETITIVE (NOV 2004) (BL.021) 125
L.9 TYPE OF CONTRACT (NOV 2004) (BL.023) 129
L.10 SERVICE OF PROTEST (NOV 2004) (BL.025) 129
L.11 PRE-PROPOSAL CONFERENCE/SITE VISIT 129
L.12 DELIVERABLES 129
L.12.1 PROPOSAL SUBMITTAL REQUIREMENTS 129
L.12.2 VOLUME SUBMISSIONS 130
L.13 INCURRED COSTS 136
SECTION M – EVALUATION FACTORS FOR AWARD 137
M.1 PROPOSAL EVALUATION 137
M.2 EVALUATION SYSTEM 138
M.3 OPENING OF PROPOSALS AND NEGOTIATIONS 138

TABLE OF CONTENTS

M.4 SELECTION 138
M.5 AWARD 138

SOLICITATION, OFFER AND AWARD
(Nonappropriated Funds)

1. No appropriated funds of the United States shall become due or paid the contractor by reason of this solicitation / award

PAGE 1 OF PAGES 138

2. CONTRACT NO.	3. SOLICITATION NUMBER	4. SOLICITATION TYPE	5. DATE ISSUED	6. REQUISITION/PURCHASE NUMBER
	NAFBA1-26-R-0028	☐ SEALED BID (IFB) ☒ NEGOTIATED BID (RFP)	05/18/2026	

7. ISSUED BY CODE BA1 (CSDV)

Department of the Army
IMCOM NAF Contracting
Headquarters Support
On Behalf Of CSDV Supplemental Mission Fund
2405 Gun Shed Road
JBSA Fort Sam Houston TX 78234-7588 USA

8. ADDRESS OFFER TO (If other than Item 7)

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

SOLICITATION

9. Sealed offers in original and 1 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried, in the depository located in SECTION L until 1600 CT (Hour) local time 07/31/2026 (Date)

CAUTION: LATE Submissions, Modifications and Withdrawals: See Section L. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL	A. NAME	B. TELEPHONE (NO COLLECT CALLS)			C. E-MAIL ADDRESS
		AREA CODE	NUMBER	EXT.	
	Leslie M. Perez	520	674-2370		leslie.m.perez9.naf@army.mil

11. TABLE OF CONTENTS

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
		PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES	
☒	A	SOLICITATION/CONTRACT FORM	1	☒	I	CONTRACT CLAUSES	46-111
☒	B	SUPPLIES OR SERVICES AND PRICE/COST	2-8			PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.	
☒	C	DESCRIPTION/SPECS./WORK STATEMENT	9-31	☒	J	LIST OF ATTACHMENTS	112-115
☒	D	PACKAGING AND MARKING	32			PART IV - REPRESENTATIONS AND INSTRUCTIONS	
☒	E	INSPECTION AND ACCEPTANCE	33-34	☒	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	116-123
☒	F	DELIVERIES OR PERFORMANCE	35-37				
☒	G	CONTRACT ADMINISTRATION DATA	38	☒	L	INSTR., CONDS., AND NOTICES TO OFFERORS	124-136
☒	H	SPECIAL CONTRACT REQUIREMENTS	39-45	☒	M	EVALUATION FACTORS FOR AWARD	137-138

OFFER *(Must be fully completed by offeror)*

NOTE: Item 12 does not apply if the solicitation includes the provisions at Section L., Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT *(See Section I, Prompt Payment Provisions)*	10 CALENDAR DAYS (%)	20 CALENDAR DAYS (%)	30 CALENDAR DAYS (%)	CALENDAR DAYS (%)

14. ACKNOWLEDGEMENT OF AMENDMENTS *(The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):*	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR — CODE — FACILITY

16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER *(Type or print)*

15B. TELEPHONE NUMBER			15C. CHECK IF REMITTANCE ADDRESS	17. SIGNATURE	18. OFFER DATE
AREA CODE	NUMBER	EXT.	☐ IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.		

AWARD *(To be completed by NAFI)*

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING DATA	
		23. SUBMIT INVOICES TO ADDRESS SHOWN IN *(4 copies unless otherwise specified)*	ITEM
24. ADMINISTERED BY *(If other than Item 7)* CODE		25. PAYMENT WILL BE MADE BY CODE	
26. NAME OF CONTRACTING OFFICER *(Type or print)* Aubrey B. Lewis		27. Nonappropriated Fund Instrumentality *(Signature of Contracting Officer)*	28. AWARD DATE

IMPORTANT - Award will be made on this Form, or on DA Form 4071, or by other authorized official written notice.

DA FORM 4069, NOV 04
For use of this form see AR 215-4; the proponent agency is OACSIM

PART I – THE SCHEDULE
SECTION B – SUPPLIES OR SERVICES AND PRICE/COSTS

B.1 OBJECTIVE

(a) To provide a modernized Soldier (21st Century capability) feeding alternative to what is described as the Army's legacy dining facility operations which will bring a modernized feel, supported by advanced technologies such as online ordering and delivery solutions, and will ultimately bring an abundance of healthy food options for Soldiers and to the wider installation community.

(b) Execute a revenue generating Campus Style Dining Venue (CSDV) that will deliver a Soldier feeding operation that will not only support Soldiers, but their Families, "Soldiers for Life" and others that creates an environment that impacts our community's health, welfare, morale in a powerful way, as well as enhances unit level cohesion and teambuilding. It will ultimately demonstrate a sincere care for our #1 priority – our PEOPLE.

(c) Expand the dining opportunities for the Essential Station Messing (ESM) Soldier that maximizes the propensity of utilization of that benefit.

(d) Promote the U.S. Army's Holistic Health and Fitness (H2F) and the Department of Defense (DoD) Healthy Base Initiatives and support the achievement of the DoD healthy living objectives by adhering to Federal and DoD nutritional guidelines. Additionally, this concept will most positively impact the Army in several areas such as health and fitness, training readiness, recruitment, and retention among many others. This relationship and methodology will be modeled by current capabilities that exist on hundreds of institutions of higher learning and corporate businesses.

B.2 ELIGIBLE PATRONS

(a) The CSDVs will be open to the wider garrison community and includes military dependents, Soldiers for Life, DA Civilians & Contractors.

(b) Eligible patrons will be comprised of two categories.

(1) Essential Station Messing (ESM) Soldiers – Essential Station Messing is messing declared by the installation, base, or station commander responsible for single Government quarters; that is essential to operate the appropriated fund dining facility efficiently and economically; or that is necessary for the health and safety of enlisted personnel permanently assigned to single quarters. Enlisted members permanently assigned to live in single Government quarters ashore and in grades E1 through E6 and who are entitled to a Basic Allowance for Subsistence may be assigned to Essential Station Messing.

(i) Soldiers on ESM will utilize the Army's established meal entitlement verification system as a means for recording transactions to enable reimbursable payment to the CONTRACTOR for ESM meals sold by the CONTRACTOR. Verification of meal entitlement will be provided by Common Access Card (CAC) via the Army Food Management Information System (AFMIS) a "government owned system" (No Personal Identifiable Information (PII) shall be accessible to the CONTRACTOR). The CONTRACTOR's point of sale system will have interoperability with the government's AFMIS.

(ii) The CONTRACTOR will be reimbursed by the FUND for only AFMIS verified ESM meals provided by the CONTRACTOR to Soldiers at the Meal Discount Rate (MDR) established by the Office of the Under Secretary of Defense (OSD) plus an additional amount in the form of a Service Fee for each operating cost (calculation below). Breakfast, lunch and dinner reimbursement timeframes are listed in Section B.2(b)(iv). Timeframes are listed in military time.

(iii) The reconciliation period, to include invoicing and reimbursement, will be managed no less than monthly in coordination with the COR.

(iv) The MDR is adjusted annually at the start of each calendar year and is published at https://comptroller.war.gov/Portals/45/documents/rates/fy2026/2026_g.pdf. CY26 is noted below for example purposes. Future year rates are the responsibility of the CONTRACTOR to obtain and implement in coordination with the COR.

Regular Days:	**Authorized Holiday Days (Thanksgiving, Christmas, Army's Birthday (June 14th):**
Breakfast (00:00 – 09:59) $3.35	Breakfast $3.35
Lunch (10:00 – 14:59) $5.55	***Holiday Lunch Meal $8.75***
Dinner (15:00 – 23:59) $4.75	Dinner $4.75
Total Allowable Day Meal Discount Rate: $ 13.65	**Total Allowable Day Meal Discount Rate with Holiday Meal: $16.85**

Regular Days:	**Authorized Holiday Days (Thanksgiving, Christmas, Army's Birthday (June 14th):**
Breakfast (00:00 – 09:59) $3.35	Breakfast $3.35
Lunch (10:00 – 14:59) $5.55	Lunch $5.55
Dinner (15:00 – 23:59) $4.75	***Holiday Dinner Meal $8.75***
Total Allowable Day Meal Discount Rate: $ 13.65	**Total Allowable Day Meal Discount Rate with Holiday Meal: $17.65**

(v) The following formula will be utilized to establish the full reimbursement amount to the CONTRACTOR by the NAFI for ESM Soldier meals:

The Discount Meal Rate represents the total food cost which equates to 35% of the total meal costs. The Operating Costs will equate to 65% of the total meal "costs". Above percentages are non-negotiable.

For example, using the CY26 rates:

Breakfast: $3.35 (MDR) + $6.22 (Operating Cost) = $9.57 (with $9.57 being the reimbursement rate for a breakfast served to a validated ESM Soldier)

Lunch: $5.55 (MDR) + $10.31 (Operating Cost) = $15.86 (with $15.86 being the reimbursement rate for a lunch served to an ESM Soldier)

Dinner: $4.75 (MDR) + $8.82 (Operating Cost) = $13.57 (with $13.57 being the reimbursement rate for a dinner served to an ESM Soldier)

Daily Total: $13.65 (MDR) + $25.35 (Operating Cost) = $39.00 (with $39.00 being the reimbursement rate if an ESM Soldier was served all three meals by the CONTRACTOR.)

The three days authorized to include a *Holiday Meal* as noted above:

Breakfast: $3.35 (MDR) + $6.22 (Operating Cost) = $9.57 (with $9.57 being the reimbursement rate for a breakfast served to a validated ESM Soldier)

Lunch: $8.75 (MDR) + $16.25 (Operating Cost) = $25.00 (with $25.00 being the reimbursement rate for a lunch served to an ESM Soldier)

Dinner: $4.75 (MDR) + $8.82 (Operating Cost) = $13.57 (with $13.57 being the reimbursement rate for a dinner served to an ESM Soldier)

Daily Total (with Holiday Meal): $16.85 (MDR) + $31.29 (Operating Cost) = $48.14 (with $48.14 being the reimbursement rate if an ESM Soldier was served all three meals by the CONTRACTOR.)

(vi) ESM meal composition examples (variety of fresh fruit and breads are offered at each meal and salad at lunch and dinner. Reference Section C.1(b)(19):

Breakfast: 1 x Entrée
2 x Sides
1 x Drink

Lunch: 1 x Entrée
3 x Sides (customizable) vegetables/starch/salad
1 x Dessert
1 x Drink

Dinner: 1 x Entrée
2 x Sides (customizable) vegetables/starch/salad
1 x Dessert
1 x Drink

Holiday Meal: Will be no less than those provided by the Army menu selection. Menus provided by the Army for these designated holidays are included as Section J.1 – Sample Holiday Menus for examples.

(vii) The CONTRACTOR will not include or consider alcoholic beverages as part of the ESM meal composition. No alcohol can be included as part of the ESM sale.

(viii) If a verified ESM Soldier only eats one meal at the CSDV, the CONTRACTOR is only reimbursed for that meal served, not the daily total. The monies associated with the other two meals is retained by the Army. Similarly, if the ESM Soldier eats two meals at the CSDV, the Contractor is only reimbursed for the meals served, not the daily total. The monies associated with the other meal is retained by the Army.

(ix) Based off that Point of Sale (POS) input, and reconciled with AFMIS recorded transactions, the CONTRACTOR will bill the Fund monthly the applicable authorized reimbursable amount for each ESM meal entitlement sold.

(x) If an ESM Soldier orders an item which is not an authorized component of a meal, the amount owed to the CONTRACTOR is the ESM Soldier's responsibility as if they were a "cash" customer.

(2) "Cash" customers – All other patrons who are not verified ESM Soldiers. There is no reimbursement rate owed to the CONTRACTOR by the NAFI for this category of customer.

B.3 <u>FEE SCHEDULE</u>

(a) The term "gross revenue" is defined as all monies and other things of value received by, or paid to CONTRACTOR, or other person, firm, or corporation for vendor's use or benefit, and all credits, arising upon, out of, or in connection with the food and beverage operations during the contract term less any refunds and applicable sales, use, excise, or other taxes.

(b) The CONTRACTOR will propose their Fee Schedules for the Contract Line-Item Number (CLIN) containing a paid monthly flat fee to the Fund.

(c) Offerors' proposal must identify **Schofield Barracks** as the initial location to operate upon award of contract. Additional locations and applicable fees will be incorporated as part of a phase-in schedule.

(d) This contract is subject to availability of funds for reimbursable ESM meals per Section B.2.b(ii). This is not a guaranteed ESM Soldier patron volume for the CONTRACTOR, as there is no mandatory participation by ESM Soldiers. The number of ESM Soldiers on a garrison may fluctuate and is subject to change at the Army's discretion and operations throughout the life of the contract.

(e) Offerors must propose on all CLINs.

MONTHLY FEE SCHEDULE TO OPERATE A CSDV FACILITY LOCATION: BLDG 780, SCHOFIELD BARRACKS, HI		
CONTRACT LINE ITEM (CLIN)	**DESCRIPTION**	**CONTRACTOR'S PROPOSED FACILITY RENOVATION INVESTMENT** *Reimbursement will not be made by the NAFI for this CLIN.
0001	Design and Renovation of the designated facility	**$_____**
MONTHLY FEES TO BE PAID BY THE CONTRACTOR		
0001-A	FIVE (5) YEAR BASE PERIOD DD/MO/YR – DD/MO/YR*	FLAT FEE TO BE PAID TO THE NAFI BY THE CONTRACTOR EACH MONTH IAW SECTION G.5. **_____/ MO**
ESM REIMBURSEMENT TO THE CONTRACTOR CONTRACTOR WILL BE REIMBURSED BY THE NAFI APPROVED MDR RATES FOR ESM MEALS SERVED AND BILLED IAW SECTION G.5 (c).		
0001-B	ESM MEAL REIMBURSEMENT	CLIN WILL BE BULK FUNDED UPON ISSUANCE OF A TASK ORDER AND INCREMENTALLY FUNDED AS NEEDED.
OPTION CLINs WILL BE NEGOTIATED PRIOR TO EXERCISING EACH OPTION		
1001-A	FIRST (1st) OPTION PERIOD DD/MO/YR – DD/MO/YR*	FLAT FEE TO BE PAID TO THE NAFI BY THE CONTRACTOR EACH MONTH IAW SECTION G.5. **_____/ MO**
1001-B	ESM MEAL REIMBURSEMENT	CLIN WILL BE BULK FUNDED UPON EXERCISING OF THIS OPTION PERIOD AND INCREMENTALLY FUNDED AS NEEDED.
1002-A	SECOND (2ND) OPTION PERIOD DD/MO/YR – DD/MO/YR*	FLAT FEE TO BE PAID TO THE NAFI BY THE CONTRACTOR EACH MONTH IAW SECTION G.5. **_____/ MO**
1002-B	ESM MEAL REIMBURSEMENT	CLIN WILL BE BULK FUNDED UPON EXERCISING OF THIS OPTION PERIOD AND INCREMENTALLY FUNDED AS NEEDED.

1003-A	THIRD (3RD) OPTION PERIOD DD/MO/YR – DD/MO/YR*	FLAT FEE TO BE PAID TO THE NAFI BY THE CONTRACTOR EACH MONTH IAW SECTION G.5. **_____/ MO**
1003-B	ESM MEAL REIMBURSEMENT	CLIN WILL BE BULK FUNDED UPON EXERCISING OF THIS OPTION PERIOD AND INCREMENTALLY FUNDED AS NEEDED.
1004-A	FOURTH (4TH) OPTION PERIOD DD/MO/YR – DD/MO/YR*	FLAT FEE TO BE PAID TO THE NAFI BY THE CONTRACTOR EACH MONTH IAW SECTION G.5. **_____/ MO**
1004-B	ESM MEAL REIMBURSEMENT	CLIN WILL BE BULK FUNDED UPON EXERCISING OF THIS OPTION PERIOD AND INCREMENTALLY FUNDED AS NEEDED.
1005-A	FIFTH (5TH - FINAL) OPTION PERIOD DD/MO/YR – DD/MO/YR*	FLAT FEE TO BE PAID TO THE NAFI BY THE CONTRACTOR EACH MONTH IAW SECTION G.5. **_____/ MO**
1005-B	ESM MEAL REIMBURSEMENT	CLIN WILL BE BULK FUNDED UPON EXERCISING OF THIS OPTION PERIOD AND INCREMENTALLY FUNDED AS NEEDED.

**Specific dates as set by the period of performance upon contract award.*

B.4 COORDINATED SITE VISITS & PRE-PROPOSAL CONFERENCE

a. Pre-proposal conference is scheduled for Wednesday, 27 May 2026 at 9:00 AM HST at Nehelani Community Activity Center, 1249 Kolekole Ave, Schofield Barracks, Hawaii. Reference section L-11.

b. A site visit to Sustainment Bistro, Bldg 780, Schofield Barracks will follow the pre-proposal conference at 10:30 AM HST.

c. An additional site visit will take place on Thursday, 28 May 2026 at 0930 AM HST
BLDG 503
FORT SHAFTER, HI
HOURS: 0930-1130 HST

d. To confirm attendance at the pre-proposal conference and site visit, please contact the following individuals:

Ms. Leslie Perez, Email: leslie.m.perez9.naf@army.mil / (520) 674-2370

Ms. Natalie Sanchez, Email: natalie.a.sanchez20.naf@army.mil / (520) 674-1460

Procedures to obtain access to Schofield Barracks are available at https://home.army.mil/hawaii/about/visitor-information

e. Independent consultation with the installation concerning the project requirements is prohibited since evaluation of proposals will be based on requirements stated in the Request for Proposals. Verification of data can be obtained by contacting the Contracting Officer. Questions regarding coordination, or interpretation of RFP requirements during the proposal phase shall be directed to the Contracting Officer. After award of contract questions shall be addressed to the Contracting Officer.

f. The clauses, “DIFFERING SITE CONDITIONS (NOV 2004) BI.081” and “SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (NOV 2005) BI.082, will be included in any Contract awarded as a result of this solicitation. Accordingly, Offerors are urged and expected to inspect the site where the work will be performed.

B.5 PRIVACY ACT STATEMENT, 5 U.S.C. §552a

a. Principle Purpose: Identification of contractors who contract with the NAFI as individuals.

b. Routine Uses: The information will be used to comply with IRS reporting requirements of certain payments made to individuals. Information furnished may be disclosed to other Federal, State, and Local Government Agencies in the pursuit of their official duties. It may also be used for other lawful enforcement of litigation.

c. The Social Security Number (SSN) is used for identification of individuals and records.

d. Disclosure: Disclosure is voluntary. If the information requested is not provided, the contract will not be executed

********** **- END OF SECTION B -** **********

PART I – THE SCHEDULE

SECTION C – DESCRIPTION/SPECIFICATIONS/WORK STATEMENTS

C.1 DEFINITIONS/ACRONYMS

(a) **Acronyms:**

A-FIT	Army Food Innovation and Transformation
AFMIS	Army Food Management Information System
AFSBn	Army Field Support Battalion
CAC	Common Access Card
CECOM	U.S. Army Communications Electronics Command
COR	Contracting Officer's Representative
CSDV	Campus Style Dining Venue
DA	Department of Army
DO/TO	Delivery Order/Task Order
DOD	Department of Defense
DMR	Daily Meal Rate
ESM	Essential Station Messing
GFE/GFP	Government Furnished Equipment/Government Furnished Property
H2F	Holistic Health & Fitness
IDIQ	Indefinite Delivery, Indefinite Quantity
IMCOM	Installation Management Command
KO	Contracting Officer
LRC	Logistics Readiness Center
MDR	Meal Discount Rate
MDRI	Military Dietary Reference Intakes
NAF	Nonappropriated Fund
NAFI	Nonappropriated NAFI Instrumentality
OSD	Office of the Secretary of Defense
PCI DSS	Payment Card Industry Data Security Standard
SEC	Software Engineering Center

(b) **Definitions:**

(1) A-FIT. Army Food Innovation and Transformation, Program Office responsible for expanding and improving healthy food options which build the food ecosystem on Army installations that are modeled after DOD's Healthy Base Initiative and Army H2F Program for Soldiers, Families, Civilians, and "Soldiers for Life."

(2) ARMY. The United States Army.

(3) CONTRACTING OFFICER (KO). Individual with the authority to enter into, administer, and/or terminate contracts on behalf of the Nonappropriated Fund Instrumentality (NAFI), which is party to this contract, and make related determinations and findings. The term includes certain authorized representative(s) of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(4) CONTRACTING OFFICER'S REPRESENTATIVE (COR). The Contracting Officer Representative is responsible to the Contracting Officer. The COR ensures the CONTRACTOR is performing in accordance with the terms and conditions of the Contract. The COR is the on-site representative of the Contracting Officer with authority to act only on behalf of the Contracting Officer as specified in the letter of designation. The COR does not have the authority to award a contract, agree to, or issue a change to the Contract. Where the term "Contracting Officer Technical Representative (COTR) "is used, it means the same as COR.

(5) CONTRACTOR. The person or entity awarded a contract.

(6) CONTRACTOR QUALITY CONTROL (QC). The CONTRACTOR's inspection, examination and control of the CONTRACTOR and Sub-contractor work and activities to ensure compliance with contract requirements and appropriate building codes and standards.

(7) CONTRACTOR QUALITY ASSURANCE (QA). The means by which the CONTRACTOR fulfills its responsibility that the QC system is functioning effectively. The COTNRACTOR may be required to submit, after award, a detailed description of the methodology used for QC and QA or an approved QC Plan.

(8) DEVELOPER. An entity that will operate a CSDV. The term also refers to the CONTRACTOR (may be used interchangeably throughout document).

(9) ELIGIBLE (AUTHORIZED) PATRONS: The CSDV operation will be open to authorized patrons in accordance with AR 215-1 Chapter 6 Morale, Welfare, and Recreation Patronage, as well as any other persons lawfully on the installation.

(10)ESSENTIAL STATION MESSING: Essential Station Messing is messing declared by the installation, base, or station commander responsible for single Government quarters; that is essential to operate the appropriated fund dining facility efficiently and economically; or that is necessary for the health and safety of enlisted personnel permanently assigned to single quarters. Enlisted members permanently assigned to live in single Government quarters ashore and in grades E1 through E6 and who are entitled to a Basic Allowance for Subsistence may be assigned to Essential Station Messing.

(11)FUND. The Nonappropriated Fund Instrumentality (NAFI) of the Department of the Army also referred to as the NAF that is a party to this contract. The NAF (Fund) may also serve as an agent for other Department of Defense (DOD) NAFIs in ordering design-build services and construction of NAF facilities.

(12)GARRISON. An Army installation that includes MWR facilities and activities funded with non-appropriated dollars.

(13)GOVERNMENT. "Government" or entity of the Government" means any entity of the legislative or judicial branch, any executive agency, military department, Government corporation, or independent establishment, the U.S. Postal Service or any Nonappropriated fund instrumentality of the Armed Forces. Under this Contract, term "Government" shall generally refer to the Fund. The term may also refer to other Federal Agencies having jurisdiction under this Contract. The user of the term "Government" shall not be construed to imply that appropriated funds of the United States are involved in this project.

(14)GROSS REVENUE. The term "gross revenue" is defined as all monies and other things of value received by, or paid to CONTRACTOR, or other person, firm, or corporation for vendor's use or benefit, and all credits, arising upon, out of, or in connection with the food and beverage operations during the contract term less any refunds and applicable sales, use, excise, or other taxes.

(15) HEALTHY FOOD. Offerings of nutritious food options at all food service stations and provide in sensible portions and well-rounded meals.

(16) HOLIDAY MEALS. Meals served on Thanksgiving, Christmas and Army Birthday (June 14th) instead of the regular lunch.

(17)INDEFINITE DELIVERY INDEFINITE QUANTITY (IDIQ). This is a type of contract that provides for an indefinite quantity of supplies or services during a fixed period of time. Task Orders are placed against the basic contract for individual requirements. Minimum and maximum quantity limits are specified in the basic contract. The use of the IDIQ contract is appropriate when it cannot predetermine the quantities, above a specified minimum amount. An IDIQ contract allows for a certain amount of contract process streamlining, as negotiations can be made only with the selected company.

(18)IMCOM. Installation Management Command is the U.S. Army's single agency responsible for worldwide installation management of Army installations worldwide supporting the U.S. Army's warfighting mission by providing uniform business structure, standardized, effective & efficient services, facilities and infrastructure to enhance the well-being of the military community.

(19)MEAL (ESM). A food offering available to Soldiers designated as ESM verified by the AFMIS, that leverages a campus style dining approach consisting of: 1 entrée; 3 sides (lunch), 2 sides (breakfast and dinner); 1 salad; 1 dessert (lunch and dinner);1 beverage; and bread, in order to execute quality nutrition closely aligned with Army H2F principles and overall health and wellness.

(20)NET PROFIT. That amount of revenue remaining after all expenses are paid, including but not limited to such items as trash removal, tax payments, utilities, costs of goods sold, salaries and benefits, payment to Fund, management fees, replacement allowance, and other expenses incurred in the operation of the facility.

(21)NAFI. Non-appropriated Fund Instrumentality. An integral DoD organizational entity that performs an essential Government function. It acts in its own name to provide or assist other DoD organizations in providing morale, welfare, and recreational programs for military personnel and civilians. It is established and maintained individually or jointly by the heads of the DoD components. As a fiscal entity, it maintains custody of and control over its Nonappropriated funds. It is responsible for the prudent administration, safeguarding, preservation, and maintenance of those appropriated fund resources made available to carry out its function. With its Nonappropriated funds, it contributes to the morale, welfare and recreational programs of other organizational entities when so authorized. It is not incorporated under the laws of any State or the District of Columbia and enjoys the legal status of an instrumentality of the United States. The Non-appropriated Fund Instrumentality (NAFI) which is a party to this contract is a nonappropriated fund instrumentality of the Department of the Army. The term "NAFI" is also synonymous and may be used interchangeable with the term "Fund" or "The Fund."

(22)REAL PROPERTY. Defined as the exterior building envelope and all facility systems and components including walls, floors, ceilings, structural systems, utility systems, electrical systems, plumbing systems, HVAC systems, fire protections systems, security systems and data/communication systems, as well as attached fixtures or equipment whose removal would cause material damage.

(23)RENOVATION AND REPAIR. Unless indicated otherwise, work performed in this category after the initial build-out is the responsibility of the CONTRACTOR and includes the following:

(a) Restoration of a real property facility to such condition that it may be effectively used for its designated functional purpose. Repair may include overhaul, reprocessing, or replacement of deteriorated components or materials.

(b) Correction of deficiencies in failed or failing components of existing equipment or systems to meet current standards and codes where such work, for reasons of economy, shall be done concurrently with restoration of failed or failing components. Corrective work may involve incidental increases in quantities or capacities. Replacement parts of materials that are more durable and provide longer life may be substituted for original parts and materials. The intent is to provide the most durable, energy efficient, low maintenance, cost effective repairs.

(c) Major work required to restore a generally deteriorated facility to such a condition that it may be effectively used for its designated purpose. Such an undertaking may include relocation or reconfiguration of building components such as partitions, windows and doors, incidental to repair or replacement. In case of failed or failing systems, such an undertaking may also incorporate additional components, if based on good engineering practice, to permit efficient and safe use of the replacement system. Repair does not include increases in quantities of components for functional reasons, nor extension of utilities or protective systems to areas not previously served. An increase in quantities of components for functional reasons, area served by utilities or protective systems, or exterior building dimensions, is construction.

C.2 GENERAL INFORMATION

(a) The U.S. Army Installation Management Command (IMCOM) NAF Contracting Office, on behalf of the U.S. Army Materiel Command, Army Food Innovation and Transformation (A-FIT) Program Office, who will manage a Program Group V, Supplemental Mission Fund Nonappropriated Fund Instrumentality (NAFI), seeks to establish one (1) firm-fixed price Indefinite Delivery-Indefinite Quantity (IDIQ) contract with a concessionaire CONTRACTOR to finance, design, build-out/renovate facility, and provide IT enhancements/platforms while operating and maintaining a minimum of one (1) Campus Style Dining Venue (CSDV) at each of the U.S. Army Garrisons listed within with the option for future expansion.

(b) The Army seeks a food service operation design and business model that is inspired by modern campus dining venues that is agile in its support to various installations that are different in size and scope as well as unit culture. The CONTRACTOR will have a strategy that provides a high-level dining management service that comes with the appropriate resources that can adapt off the local market and extend its operational reach to its consumers. The Army will encourage the CONTRACTOR to incorporate the necessary technologies and practices in order to achieve optimal effects for the Army community. The CONTRACTOR will be allowed to maintain its flexibility to adopt to consumer trends and will be encouraged to excel in planning, operations, and marketing.

(c) For all facilities, there are two lines of operation that are key to success:

(1) Build-out/Renovation and modification of existing Dining Facilities (DFACs) that delivers a modern 21st Century venue that creates an environment that will foster unit esprit de corps, provide ambience that is inviting to single Soldiers and Families alike – to include recreational activities and space and social gatherings areas that attract the authorized patron community.

(2) Professional management and provision of high-quality food and beverages.

(d) The CONTRACTOR will provide all labor, personnel, supervision, materials, tools, Point of Sale (POS) software and devices (to include merchant card processing services), and equipment required that is not designated as GFE in Section J., operations, management of services, license rights, internet services, and supplies to create a CSDV experience for eligible patrons. The Fund will not provide military or civilian cooks, or personnel as a part of this contract, thus no existing military or civilian staffs at identified locations will be transferred or transition to the CONTRACTOR's oversight or payroll. Any hiring of incumbent service-contractor personnel to the CONTRACTOR's employment under this award is the responsibility of the CONTRACTOR, not the Fund.

C.3 IDIQ DELIVERY/TASK ORDERS

(a) Only Army NAF Contracting Officers are authorized to place orders against this contract.

(b) Minimum Order. Funding under this contract obligates the Fund to order a minimum of one (1) CSDV site location.

(c) Maximum Order. Orders issued hereunder may exceed the noted building locations within Section C.5 - Locations.

(d) Reference Section J.2 – ESM Numbers by Garrison for the number of ESM Soldiers assigned to each garrison.

(e) Once a building location is approved to proceed by the COR, the CONTRACTOR will provide to the Contracting Officer:

(1) A proposed building concept specific to that location and inclusive of at least:

(i) Furnishings, color schemes, finishes, colors, textures, cut sheets and renderings that effectively illustrates the CONTRACTOR's idea and transformation of the facility's existing design, fit, function and ambiance to the new proposed design, fit, function, and ambiance.

(ii) Any restaurant brand concepts to be offered within the facility (noting specifically if they are internal or external brands).

(iii) Sample menu items (with pricing) that accommodate the broad range of consumer preferences (7 days' worth of breakfast, lunch, dinner, and other à la carte offerings such as snacks that would be available to "cash" customers/non-ESM payment patrons).

(iv) Sample menu items that will be available to the ESM patrons (7 days' worth of breakfast, lunch, and dinner) that adhere to the nutritional guidelines in RFP section C.6.6 - Nutrition and are within the allowable dollar range allowable per meal and for each day.

(v) Operating hours that will support the lifestyle and workstyle needs of the community.

(vi) Implementation of how and where the CONTRACTOR will reach the various portions of post (where the patrons are) with quality food utilizing various "delivery" platforms/options.

C.4 PERIOD OF PERFORMANCE

(a) The period of performance of this contract will be a base period of five (5) years with the option to exercise five (5) one-year options in accordance with *Section I.12, Option to Extend the Term of the Contract.* Each task order resulting from this IDIQ will have a base period of five (5) years with five (5) one-year option periods for a possible total of ten (10) years.

(b) Exceptions to Policy: The following Exceptions to Policy (ETPs) have been issued by the Department of Defense (DoD) in support of the CSDV Program and this contract requirement. Each exception is granted for a period of one (1) year and requires independent annual renewal to remain applicable to this contract. Should any exception not be approved, the Contractor will assume the associated risks and must adjust their business model and delivery methods to comply with the relevant DoD requirements covered by the unapproved ETP.

(1) DLA Waiver: Procurement of Food from Non-DLA Sources

(i) This relieves the contractor from the DoD requirement to procure food from DLA. This enables the contractor to procure from sources other than DLA that may provide them an economic advantage.

(ii) Government Supply Sources

(a) The Contractor is authorized to use the Defense Logistics Agency (DLA) as a Government supply source in the performance of this contract, contingent upon DLA's approval.

(b) When placing orders from DLA, the Contractor shall—

1. Comply with the specific requirements of DLA, including using FEDSTRIP, MILSTRIP, or other procedures, as appropriate;

2. Order only those items required in the performance of the Contractor's Army Campus Style Dining Venue (CSDV) contract; and

(c) Pay invoices from DLA promptly and in accordance with any specific instructions provided by DLA. Unless otherwise specified by DLA, this means within 30 days of the date of a proper invoice. The Contractor shall annotate each invoice with the date of receipt. Unless otherwise specified by DLA, for purposes of computing interest for late Contractor payments, the invoice will be deemed to have been received when all the conditions of the INVOICE (MAR 2020) clause of this contract have been met. The Contractor's failure to pay may also result in DLA refusing to honor the requisition or in DLA terminating the Contractor's authorization to use DLA as a supply source. In the event the Contracting Officer decides to terminate the authorization due to the Contractor's failure to pay in a timely manner, the Contracting Officer shall provide the Contractor with prompt written notice of the intent to terminate the authorization and the basis for such action. The Contractor shall have 10 days after receipt of the Government's notice in which to provide additional information as to why the authorization should not be terminated. The termination shall not provide the Contractor with an excusable delay for failure to perform or complete the contract in accordance with the terms of the contract, and the Contractor shall be solely responsible for any increased costs.

(d) Only the Contractor may request authorization for subcontractor use DLA as a supply source. DLA will not grant authorizations for subcontractor use without approval of the Contractor.

(e) DLA invoices shall be submitted to the Contractor, and Contractor payments shall be sent to DLA, in accordance with terms agreed to by the Contractor and DLA.

(f) In no event shall the Government (to include DLA, the Army, or any other Governmental entity) be liable for any claims arising from Contractor's actions in relation to Contractor's use of DLA supply sources and Contractor hereby agrees to indemnify and hold the Government harmless for any and all claims associated therewith.

(2) ETP #2 – Exceptions to Recipe Cards

(i) This exception allows Army's Food Modernization Pilot contractors to use recipes other than those in the Armed Forces Recipe Service (AFRS) or specific military service recipes. Contractors are granted the flexibility to use menus and recipes that align with their branding or flavors while maintaining Army Nutritional Standards. This enables on-site restaurant management professionals, chefs, and affiliated nutritionists to develop and provide nutritious meals and maintain appealing meals Soldiers seek.

(3) ETP #3 – Exception to Processing

(i) This exception permits contractors participating in the Army's Dining Facility Food Modernization Pilot to deviate from the processing specifications of the Army Food Program and align with USDA healthy eating guidelines.

(iii)This exception provides Army's Food Modernization Pilot contractors the flexibility to use raw or pre-processed commodities that have been enhanced through the addition of ingredients or processes, making them more readily usable or other items that do not conform to DoD processing specifications. Examples include pre-prepared vegetables, shredded lettuce, cut or marinated meats, and pre-made salsa.

(4) ETP #4 - Exception to Standard Meal Rate

(i) This exception allows for reimbursement of meals at amounts greater than the Standard Meal Rate.

(c) The NAF's ability to award the contract is contingent upon Office of the Under Secretary of War (OUSW) authorizations pertaining to above subject areas.

(d) Contractor Compliance and Termination Option

(i) If the Contractor is unwilling or unable to accept the assumed risks associated with each ETP if the ETP is not renewed during any given option year period, the Contractor may seek to invoke the "No-Fault Termination" clause as outlined in Section I.70 of this RFP.

C.5 LOCATIONS

(a) The Fund desires the implementation and operation of Sustainment Bistro, Bldg 780, Schofield Barracks, HI. Implementation will be determined based on facility availability, issuance of a Task Order followed by a Full Notice to Proceed (FNTP) to operate the facility upon completion and acceptance by DPW of building renovations, permits, licenses and any other relevant documentation.

(b) The fund reserves the right to expand operations to additional facilities within the Garrisons listed below. Implementation order will be determined based on facility availability, issuance of a Task Order followed by a Full Notice to Proceed (FNTP) to operate the facility upon completion and acceptance by DPW of building renovations, permits, licenses and any other relevant documentation.

(1) BLDG 503, FORT SHAFTER

(2) WARRIOR DFAC, BLDG 2085, SCHOFIELD BARRACKS

(3) WINGS DFAC, BLDG 102, WHEELER ARMY AIRFIELD (AAF)

(4) BRONCO DFAC, BLDG 357, SCHOFIELD BARRACKS

C.6 OPERATIONS

(a) The CONTRACTOR will maintain a close and cooperative working relationship with Fund representatives and actively participate in frequent meetings, consultations and other communications at no expense to the Fund.

(b) Although the submitted detailed business plan must be mutually agreed to, upon acceptance of submitted proposal and incorporated as a part of the awarded IDIQ, the CONTRACTOR must take a primary and leading role in executing the business plan upon award of each Delivery/Task Order. In so doing, the CONTRACTOR must be thorough, creative, and professional in identifying issues, analyzing solutions and in entrepreneurial processes to ensure the successful implementation of the CSDVs.

(c) The CONTRACTOR will provide efficient business management and administration utilizing its best efforts at all times in the most expeditious and economical manner consistent with the interests of the Fund and the Garrison. The CONTRACTOR must use at least the same degree of skill and care as would any reasonably prudent CONTRACTOR for similar operations and projects.

(d) Modifications to the business plan after contract execution will be permitted only upon the prior written approval of the Contracting Officer. The Contracting Officer may make within scope changes to the contract.

(e) The CONTRACTOR shall endeavor to subcontract with AbilityOne nonprofit agencies for applicable services that are specified on the Procurement List maintained by the U.S. AbilityOne Commission: https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.abilityone.gov%2Fprocurement_list%2F&data=05%7C01%7Ckzeich%40AbilityOne.gov%7Cb835f51ae8ed475fca3508db0e0e1212%7C6ac0ca9fe64d49138be9206ce28101d3%7C0%7C0%7C638119226393865014%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=KcWzfgALH4af5ffPp6%2Bn64Fh9egkB2QFYbRGc%2F73%2BGM%3D&reserved=0

(f) Pursuant to Dept of Education's 23 December 2025 decision limiting the Randolph-Sheppard Act as applied to Army dining facilities contracts to include CSDV facilities, this solicitation is not subject to the Randolph-Sheppard priority.

C.6.1 NUTRITIOUS FOOD AND BEVERAGE SERVICES

(a) The CONTRACTOR will utilize its expert skill and judgment in furthering the interests of the CSDV by providing 24/7 access to prepared healthy food based on patron demand at each garrison utilizing methodology and business capabilities available. Furthering interests should include but not limited to the following within the operational business plan:

(1) Building and sustaining a customer base to generate a wide network of venue options that operate in the “Healthy Options” space and others as deemed profitable and appropriate for patron populations.

(2) Offering strong restaurant brands (internal/external, national, regional, and local).

(3) Consider a variety of meal and service options: à la carte, dine-in, takeout, delivery, and meal prep (“heat n’ serve meals” and “cooking required meals” to accommodate patrons with and without access to kitchens) – inclusive of high protein, low-residue feeding, bite-sized, special diet options and customizable menu options.

(4) Implementing innovative trends and capabilities to include multiple ordering platforms and methods; offering mobile and web applications.

(b) The CONTRACTOR will provide a Head Chef working at each location. The Head Chef will have, as a minimum, certification by the American Culinary Federation or equivalent credentials. The Head Chef will oversee the operations and staff of the facility to include creating and maintaining a kitchen’s budget, assigning tasks to other staff, ensuring customer satisfaction by dealing with any issues that may arise, managing staff, creating menu items, and ordering inventory.

(c)The CONTRACTOR will have action stations which are defined as a station in which customers provide input to the chef and the chef performs a type of action such as cooking, mixing, assembling or adding toppings to customize the meal as requested. Further information on action stations is located in Section J.14.

(d) The CONTRACTOR will have a Dietitian who will work adjunctly with the Army’s Dietitian. The CONTRACTOR’s Dietitian will provide nutrient evaluation and analysis for menu items and recipes to ensure that Army menu standards and nutrition requirements for Service Members are met.

(e) The CONTRACTOR will have operating hours providing availability beyond the Army’s traditional DFAC breakfast, lunch and dinner hours based on demand of the location patron populations of each garrison community.

(f) The CONTRACTOR will provide superior customer service inclusive of courteous, professional, and prompt service to patrons. Patron complaints will be disposed of by agreement between the patron and the CONTRACTOR. Unresolved complaints will be adjudicated by the Contracting Officer and the decision will be binding upon the CONTRACTOR.

(g) The CONTRACTOR will purchase food utilizing their own contracting vehicles and commercially available off-the-shelf (COTS) items from American sources to the maximum extent practicable.

(h) The Berry Amendment does not apply except as noted below.

(1) Contractor shall not procure seafood originating in the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, or the Democratic People’s Republic of Korea.

(i) Contractor may not acquire food for use in concession operations unless it has been grown, reprocessed, reused, or produced in the United States unless the Secretary of the Army determines such items cannot be acquired as or when needed in satisfactory quality or sufficient quantity at U.S. market prices. This restriction does not apply to:

(1) Acquisitions not exceeding $200,000

(2) Acquisitions of foods manufactured or processed in the United States, regardless of where the foods (and any component if applicable) were grown or produced. This exception does not apply to the prohibition above in (h)(1).

(j) Contractor shall comply with the following Buy American Act requirements.

(1) Definitions. As used in this section -

a. COTS 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 clause BI.001);
(ii) Sold in substantial quantities in the commercial marketplace; and
(iii) Offered to the NAFI, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

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

(2) "Component" means an article, material, or supply incorporated directly into an end product.

(3) "Cost of components" means-

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

b. 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 end product.

(4) "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 will be found at FAR 25.105.

(5) "Domestic end product" means-

a. For an end product that does not consist wholly or predominantly of iron or steel or a combination of both-
(i) An unmanufactured end product mined or produced in the United States; or
(ii) An end product 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 as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic; or
(B) the end product is a COTS item.

(6) "End product" means those articles, materials, and supplies to be acquired under the NAF contract.

(7) "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.

(8) "Foreign end product" means an end product other than a domestic end product.

(9) "Foreign iron and steel" means iron or steel products not produced in the United States.

(10) 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.

(11) "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.

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

(13) “United States" means the 50 States, the District of Columbia, and outlying areas.

a. 41 U.S.C. Chapter 83, Buy American, provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 1907, the domestic content test of the Buy American statute is waived for an end product that is a COTS item, except that for an end product 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 end product, excluding COTS fasteners.

b. Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

c. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled "Buy American Certificate."

(End of Clause)

(k) The CONTRACTOR will clearly price all items available within the operations. All pricing and information will be written in English. Price signage must be professional in appearance, neat, and made of weather-proof materials. All prices will be properly displayed in prominent places at all times.

(l) The CONTRACTOR will provide menu pricing for review by the Contracting Officer and COR. ESM meal prices are subject to change per calendar year as approved by the Department of the Army.

(m) Prices for the sale of non-ESM food, non-alcoholic beverages, and novelty items, if approved, will be submitted to and approved by the Contracting Officer.

.

C.6.2 PATRONS

Reference Section B.2 – Eligible Patrons.

C.6.3 SYSTEM OF ACCOUNTS

(a) CONTRACTOR will have an automated POS method/solution that provides a seamless, efficient and enjoyable dining experience while also enhancing operational efficiency, guest satisfaction and profitability:

(1) Records the ESM meals served/sold (reference section C.6.5 – Information Technology for AFMIS interoperability, verification, and billing reconciliation.)

(i) System must query AFMIS in real time using Soldier CAC barcode from a scanner connected locally to each POS terminal, kiosk and/or mobile ordering application.

(ii) System should create a local cached account for each Soldier and mark it as eligible or ineligible for a meal period after a response is validated from the AFMIS system. If response is ineligible, POS system should indicate in real time the code provided by AFMIS and be presented to the Soldier customer by the system or system personnel for further action on their part.

(iii) System should then assign an internal number for the local cached account used for internal tracking, reporting and validation and is a unique value from the CAC ID, but linked within the POS system.

(iv) System internal number will then assign a meal plan value equal to values established in Section B.2.b.1. for each eligible meal period validation for a running total/balance available to the ESM Customer in a 24-hour period to be used for payment within an a la carte food service model.

(v) System will allow for meal period values to be accessed backwards and forwards in a 24-hour period and allow for future expansion for forward access up to 72 hours in advance and beyond if and when required.

(vi) System will identify when a meal plan value for that meal period is exceeded and ESM customer will be prompted with the choice to pay balance in cash/credit or to pull backwards for a missed meal period if available or forward from the next meal period meal value and so on.

(vii) System will allow for meal plan values to be used across all of the CONTRACTOR provided meal access capabilities and POS engagements seamlessly.

(viii) System meal plan values will reset each day at 0000 hours with no carryover into the next meal plan day.

(ix) System will post a record in real time when AFMIS is online, updating the current meal plan balance with each scan so meals will be validated, deducted or voided within each meal period.

(2) Prohibits the “overserving of meals” to ESM personnel when AFMIS is not able to real-time decrement or to be implemented during AFMIS outages.

(i) System will identify if AFMIS is offline and the process to capture requests.

(ii) System will identify if Network is offline and the process to capture requests.

(iii) If total system power or technical systems are unavailable, provide manual system for capture of accounts and requests which are then manually updated into System when available.

(3) Provides nutritional serving computation and Army Go For Green (G4G) categorization; quantity of servings with portion size of recipe by unit of measure and portion weight; nutritional data; and ingredient types of recipes.

(4) Provides meal items sold by recipe and G4G category - broken down by breakfast, lunch and dinner.

(5) Provides automated consumable monthly reconciliation reports that contain the aforementioned information and includes trend analysis across ESM and cash patrons' daily utilization and ESM only behaviors like what, where, when, how much, how often, etc. Contractor shall be responsible for submitting all required transactional data for each transaction through the AFIT API in the approved data schema daily. The vendor must ensure that all data is accurate, complete, and formatted according to the AFIT API documentation included in *Attachment J.20, Transaction Data Capture Template.* All data submissions must conform to the required data schema. The Contractor may be granted a 90-day grace period to develop automated capability if not available from the onset. During the grace period, Contractor will be required to provide manual reports by the due date established in Section F.1.

(b) The CONTRACTOR will establish and maintain a system of bookkeeping accounts, and records consistent with good accounting practices in accordance with the American Institute of Certified Public Accountants. The Contracting Officer or the Contracting Officer's duly authorized representative will have the right to examine and audit the books and records of the CONTRACTOR directly pertaining to the contract during the period of the contract and until the expiration of three years after the expiration of the contract. The CONTRACTOR will submit yearly audited financial statements to the Contracting Officer. The CONTRACTOR will include this provision in all of its subcontracts hereunder that exceed $10,000.00.

(c) The CONTRACTOR will certify the integrity of its financial records and reports (reference section G.5-Payment Type / Frequency of Payment.

(d) Concessionaire employees will not solicit or accept tips from Soldiers enrolled on ESM in relation to government furnished meals.

C.6.4 <u>GOVERNMENT FURNISHED EQUIPMENT (GFE)</u>

(a) The Fund will provide Government Furnished Equipment (GFE) in good working condition and furnishings in "as is" condition. The Government will repair equipment available for concessionaire use prior to transferring real property to the Concessionaire. The Government is not required to make repairs to equipment that will not be transferred to the concessionaire.

(b) Known GFE listings can be found in Section J.

(c) PROPERTY INVENTORY:

(1) A complete inventory of all Government and NAFI-owned property provided under this contract will be conducted by the COR and the CONTRACTOR upon contract award and yearly thereafter. During the inventory, both parties will catalogue all Government and NAFI-owned property and equipment to be supplied to the CONTRACTOR for use under this contract, as well as the condition all such property and equipment.

(2) The CONTRACTOR will submit a hand receipt on DA Form 2062, acknowledging the transfer of Government and NAFI-owned property and equipment to the CONTRACTOR.

(3) The CONTRACTOR will establish and maintain adequate control records for all Government and NAFI-owned property and equipment furnished for CONTRACTOR use under this contract. Upon completion or termination of the contract, the CONTRACTOR will transfer control of all Government and NAFI-owned property and equipment, furnished under this contract, to the incoming CONTRACTOR, or to the NAFI, in the same condition as it was received, with reasonable wear excepted.

(d) RESPONSIBILITY FOR REPAIR/MAINTENANCE OF NAFI EQUIPMENT: Upon its transfer into CONTRACTOR custody or control, the CONTRACTOR will be directly accountable and responsible for all Government and NAFI-owned property and equipment furnished under this contract.

(1) If the Government and/or NAFI-owned property and equipment requires repair, the CONTRACTOR will notify the COR as soon as practicable. The CONTRACTOR will coordinate to schedule all required repairs for the Government and NAFI-owned property and equipment with the COR.

(2) If the Government and/or NAFI-owned property and equipment requires maintenance, the CONTRACTOR will bear responsibility for all maintenance of Government and/or NAFI owned property and equipment.

(e) CONTRACTOR PROVIDED EQUIPMENT: The CONTRACTOR may install additional electrical equipment based on availability of adequate electrical support, but only upon written approval of the COR. All equipment that has been purchased by the CONTRACTOR will remain the property of the CONTRACTOR. The CONTRACTOR will be responsible for the maintenance, repair and replacement of any CONTRACTOR-furnished property or equipment.

(f) The CONTRACTOR will be responsible to upkeep, maintain, repair and/or replace GFE food service equipment. If the CONTRACTOR determines that an item is beyond repair the item will be returned to the Fund and it shall be the responsibility of the CONTRACTOR to obtain new equipment, should they require it for their operational needs.

(g) BUY-BACK CLAUSE. The following procedures will be followed upon termination, for any reason, or expiration termination of the contract.

(1) The NAFI reserves the right, not the obligation, to purchase from the Contractor at the expiration of the contract Government Furnished Equipment (GFE) replaced by the Contractor throughout the term of the contract or any other equipment purchased by Contractor throughout the term of the contract at any of the Garrison locations. Below is the formula to be utilized to calculate the buy-back price.

(2) The buy-back price will be the net book value of the assets at the expiration of the contract. The net book value of the asset is quantified as purchase price less depreciation. Assets are depreciated according to the useful life of the asset per Table 1 below:

TABLE 1: FY 2019 – Policy Execution Procedures (PE) Nonappropriated Fund Instrumentalities (NAFIs) Finance and Accounting Policy Implementation

Policy Execution Procedures **Chapter 32**
June 2019

Table 4-1, Depreciation Periods

Description	Life Expectancy
Buildings	15-40 years
Building Improvements	5-30 years
Furniture, Fixtures, and Equipment	2-10 years
Vehicles, Aircraft, and Boats	2-7 years
Computer Hardware and Software	2-3 years
Land Improvements	5-25 years

(3) Asset(s) must be in substantially same condition as at time of sale, subject to normal wear and tear. Any material damage or missing components may result in a reasonable deduction from the buy-back price, as mutually agreed to by the parties. Contractor shall provide original purchase receipts for equipment to be purchased by the NAFI.

(4) The Contractor shall remove all Contractor owned equipment, unless purchased by the NAFI or otherwise agreed to by the parties in writing. For the sake of clarity, Contractor owned equipment includes all equipment purchased by Contractor, including Government Furnished Equipment (GFE) replaced by the Contractor throughout the term of the contract or any other equipment purchased by Contractor throughout the term of the contract at any of the Garrison locations.

C.6.5 INFORMATION TECHNOLOGY

(a) Access to the AFMIS API interfaces will be managed through the AFMIS AFIT Admin API.

(b) The CONTRACTOR will ensure date integrity by scanning the DoD ID from the Common Access Card (CAC) for submission to AFMIS APIs.

(c) The CONTRACTOR's Point of Sale (POS) system will internally link and identify specific individual meal transactions for an ESM Soldier for reporting and reimbursement purposes.

(d) The CONTRACTOR will upgrade their POS system and other IT systems to support future enhancements, such as meal ordering (to include custom meals), delivery and or reporting metrics linked to transactions and meals provided.

(e) The CONTRACTOR's POS and any identified 3rd party application and/or system will be in compliance with DoD regulated IT security requirements.

(f) CONTRACTOR collection of Personally Identifiable Information (PII) for individual transactions will comply with allowances established and regulated by DoD/Army in accordance with Sections I.32, I.33 and I.90.

(g) The CONTRACTOR will:

(1) Establish a business supporting commercial environment to empower the business transactions (front and back of house) such as menu planning, inventory management, food supply chain management, kitchen display systems, and transaction management.

(2) Provide POS terminals to support business model that accept all common methods of payment to include cash, cards, and tap-to-pay.

(3) Provide POS transaction security controls (meeting/maintaining current Payment Card Industry Data Security Standard (PCI-DSS compliance).

(4) Provide commercial Internet in support of the POS terminals and other connectivity needs determined by the CONTRACTOR within the CSDV.

(5) Provide menu boards.

(6) Provide Video display monitors.

(7) The Contractor will Interface with the AFMIS AFIT API for:

(i) Identifying an ESM Soldier

(ii) Determine if a meal has already been provided to that soldier for a specific meal type/date

(iii) Post/Void meal transactions for a Specific Soldier/Meal type/Date

(iv) Contractor shall immediately contact the COR for instructions if AFMIS becomes inoperative.

(8) The Contractor will meet all DoD/Army cybersecurity requirements to interface with the AFMIS AFIT API.

(9) For vendor delivered software, there will be no storage of PII on any of its devices. The software, whether developed or COTS, must follow the Army Software Assurance process as outlined in the Software Assurance process in the NETCOM TTP dated 22 MAR, DA PAM 25-2-5, and must implement the controls in Appendix D of the NETCOM Assess-Only TTP.

(h) A-FIT will:

(1) Identify and integrate key Army Information Technology Stakeholders - such as U.S. Army Communications Electronics Command Software Engineering Center (CECOM SEC) (Program Management Office - AFMIS)

(2) Coordinate training requirements for CONTRACTOR to integrate with AFMIS.

C.6.6 NUTRITION

(a) The CONTRACTOR will:

(1) Follow "military dietary reference intakes" (MDRI) located in AR 40-25, "Nutrition and Menu Standards for Human Performance Optimization". The Contractor will utilize MDRI as a guide to meet or exceed nutrition and menu standards within their food offerings.

(2) Meet or exceed Nutritional/Performance requirements per the Dietary Guidelines for Americans https://health.gov/our-work/nutrition-physical-activity/dietary-guidelines and all associated DoD policies that are comprised of guidance and outlines that consist not only of DoD policies, but the American College of Sport Medicine, the Harvard University T.H. Chan School of Public Health/Department of Nutrition.

(3) Align with 'Go for Green' principles https://www.hprc-online.org/nutrition/go-green and the "Menu's of Change Program" from the Culinary Institute of American and the Harvard University TH Chan School of Public Health https://www.menusofchange.org/.

(4) Offer healthy options with menus that meet a range of dietary, religious, and medical meal needs including 'flexitarian' options.

(5) Provide robust and customized nutrition through sustainable food sourcing (local, organic, humane, no antibiotics, hormone and growth promotion free) aligning with and expanding on overarching goals within the dining program.

(6) Follow the Department of Health and Human Services Food Service Guidelines for Federal Facilities (Concession Operations) https://www.cdc.gov/obesity/downloads/guidelines_for_federal_concessions_and_vending_operations.pdf

(7) Ensure that a wide variety of vegetables, fruit and whole-grain offerings are always available while serving proper portions of animal and plant proteins ensuring Soldiers will experience a more sustainable way to eat well and support long-term health and wellness goals. (Reference Section J.15).

(8) Configure its approach to support human performance optimization, which is tied to timing of nutrient intake, to enable the individual's physical, behavioral, and cognitive performance. For example: offering different types of menus (including 'reduced calorie menus') that support different levels of activity and varying levels of energy expenditure. (The American College of Sport Medicine's Joint Position Statement on Nutrition and Athletic Performance provides an excellence reference. Medicine & Science in Sports & Exercise (lww.com)

(9) Digitally display pricing, portion size, and nutritional content (i.e., calories per serving, (GS) Gluten Sensitive, (V) Vegan), contains nuts, organic,) for all items available within the operation.

(10) Provide Action Stations which are defined as interactive food stations with direct interaction between the customer and chef or cook in a more personalized way. Customers might watch the chef "in action" as he or she physically cooks, grills, assembles, mixes or adds toppings as desired by the individual customer (reference J.14).

(b) The COR will:

(1) Partner the CONTRACTOR with the Army's Holistic, Health, and Fitness (H2F) team, the Army's Surgeon General and the DOD Nutrition Committee.

(2) As part of the Quality Assurance outlined in section C.15 review with the CONTRACTOR:

(i) The latest research on menu, nutrition, and service while being committed to the integrity of compliance and consistency.

(ii) Soldier athlete requirements for protein, carbohydrates, fat, fiber and micronutrients to include hydration, sodium, and electrolytes data ensuring proper alignment that achieves the end state of enabling Soldier health and performance as outlined by the MDRIs

(c) Nutritional Resources – Reference Section J.8.

C.6.7 ALCOHOL

The CONTRACTOR may be permitted to sell beer and wine products subject to the guidance stated in AR 215-1, Chapter 10. The CONTRACTOR will not sell, store, dispense, or knowingly permit the sale, storage or dispensing of any distilled spirits in any CSDV facility. No alcohol can be included as part of the ESM meal.

C.6.8 MARKETING

The CONTRACTOR will utilize effective marketing and advertising strategies via vehicles that will effectively:

(a) Inspire Soldiers to make healthier choices while still eating foods they want to eat, inclusive of a focus on nutritional quality and appeal, rather than the marketing of good foods vs. bad foods.

(b) Increases the utilization of ESM Soldier benefit.

(c) Contractor will coordinate with the COR to receive approval of all marketing material.

C.7 FACILITY(IES)

C.7.1 BUILDOUT/RENOVATION

(a) The Fund will provide a fully functioning facility for the CONTRACTOR to operate the CSDV at each Garrison included in the resulting award. A joint inventory of the facility will be conducted between the Garrison, COR, and CONTRACTOR prior to build-out renovations. Inventory will serve to identify systems, furnishings and equipment available for use by the CONTRACTOR, and their current condition. The concessionaire CONTRACTOR is solely responsible for all costs and efforts associated with design and construction to renovate facility per approved concept renderings and Issued for Construction (IFC) drawings except as noted in Section C.7.2. (f).

(b) Procedures and Requirements. The CONTRACTOR, their agents, and employees will be required, prior to the commencement of build-out/renovations to become familiar with, comply with, and meet all state and federal regulations.

(c) Design and Build-out/Renovation Commencement. The Fund will issue a Notice to Proceed for the build-out/renovation phase upon receipt of the Fund's written approval of all required documents for Contract execution and final build-out/renovation plans and specifications. Build-out/renovations shall commence upon issuance of a Notice to Proceed. The CONTRACTOR will diligently proceed with build-out/renovations and shall commence when and only when the Fund has issued a Notice to Proceed.

(d) In the event of a major restoration or new construction effort required after award of contract, the CONTRACTOR will obtain proper approvals prior to commencement of work and will submit appropriate design documents at a level of detail for the government to review and comment. The Fund may request multiple design phase submittals to the respective Garrison DPW prior to construction issue for permit is submitted by the CONTRACTOR, reference Section J.16, Construction Guide V3, for additional guidance relating to renovation and construction requirements.

(e) Contractor will allow for consideration as part of the renovation scope of work modern furniture and efficient access to electrical outlets and charging stations, portable or otherwise, throughout the space. Customer device charging capability must allow for at least 33 percent of the seating capacity in the dining area.

C.7.2 MAINTENANCE AND REPAIR

(a) The premises and food service equipment furnished to the CONTRACTOR is authorized for use in performance of this contract only.

(b) Any renovation to the facility must receive prior approval from the COR and Garrison DPW, and all costs associated to the project shall be borne by the CONTRACTOR.

(c) The CONTRACTOR will be responsible for cleaning and maintenance of:

(1) Ceilings, light fixtures, diffusers, and windows, interior finishes (floors, walls, ceilings, casework, furniture).

(2) Return air grills and ducts from kitchen units to include fume hoods over cooking, servery and coffee areas.

(3) Cleaning, fireproofing and certification of flues and duct work.

(4) Coordinating and providing a certified exterminator for rodent, pest control and extermination in food service areas.

(5) Equipment listed in C.6.4 and other equipment utilized in the performance of the contract.

(d) The CONTRACTOR will be responsible for all damage, regardless if caused by "negligence" or any other cause.

(e) As part of the CONTRACTOR's management and operations strategy, the CONTRACTOR will develop a general maintenance and repair/quality control plan. The CONTRACTOR will use the plan as a guideline when fulfilling maintenance and repair responsibilities at the facility for the term of the contract. The Fund requires assurance that adequate provisions are made for the long-term maintenance of the facility in accordance with industry standards for such operations.

(f) The garrison DPW will maintain and repair the building structure and will ensure any maintenance of gas, water, plumbing, HVAC and ducts, roof, walls, doors, and windows, steam, sewer, ventilation, and electrical lines (all to the point of connection with food service equipment), and sprinkler systems - unless the CONTRACTOR has made a facility change impacting these aspects, at which point the CONTRACTOR becomes responsible for the maintenance and repair.

C.7.3 GROUNDS AND OTHER MAINTENANCE

(a) CONTRACTOR will keep the loading dock clean and free of debris, to include the receiving and trash areas related to Contractor's operations.

(b) CONTRACTOR will clean and maintain the grounds around CONTRACTOR's assigned area not to exceed a distance of 10' unless otherwise indicated by the Installation's grounds maintenance contract, in order to maintain a neat and orderly appearance, to include the following:

(1) Sweep and clean in and around entrances, exits and sidewalks as required, maintaining a neat and clean facility appearance at all times. Cleaning includes but not limited to removing all paper, trash, and cigarette butts from the area.

(2) All entrances, exits, and sidewalks leading to and from the facility will be free of snow and ice prior to and throughout each meal period. (NOTE: sanding or salting of ice will be required in addition to removal, if a normal practice at the Installation).

(3) Additional Maintenance. Weather, traffic, or other conditions may demand additional cleaning or maintenance to ensure that the grounds are clean and orderly.

(c) The garrison DPW will:

(1) Mow and trim grass as required to maintain within garrison standard.

(2) Trim/prune shrubbery as required to present a neat/trim appearance at all times.

(3) Water grass, flowers, and shrubbery (other than entrance potted plants installed by CONTRACTOR) as required to maintain and promote growth or in accordance with local Installation schedule.

C.7.4 UTILITIES

(a) Payment for the amount of each utility service consumed will be the sole responsibility of the CONTRACTOR. Exact utility rates will be determined by the Directorate Resource Management (G8) at each Garrison prior to award of each task order. Utility rates shall be as prescribed by AR 420-41 paragraph 4-8a(2) and table 4-4 for MWR Concessionaire Contractor.

(b) The CONTRACTOR will enter into a contract(s) with the installation and/or, as applicable, local utility providers for utility services in accordance with local Garrison requirements to include water, gas, electrical, trash, and recycling containers/dumpsters.

(c) The CONTRACTOR will, in accordance with Garrison procedures, locate and determine elevations of all existing utilities which may be encountered during any work performed and will protect all such utilities from any possible damage during the process of said work. If such damage should occur due to CONTRACTOR operations, repairs will be made immediately by qualified personnel at the CONTRACTOR's expense.

(d) The CONTRACTOR will not alter existing utility systems without prior written approval from the COR and garrison DPW. The CONTRACTOR will ensure that all measures are in place to conserve utilities during the performance under this contract. The CONTRACTOR will provide for removal of all waste and refuse at CONTRACTOR expense and in accordance with applicable laws and regulations. The CONTRACTOR will be required to pay impact fees for sanitary sewer discharge costs based on metered water consumed.

C.7.5 REAL PROPERTY REVOCABLE LICENSE

CSDV sites will operate under a license agreement issued by the Directorate of Public Works and approved by the Garrison Commander (GC) at each location. The license agreement will be entered into between the concessionaire CONTRACTOR and GC for the duration of the base period and exercised option periods not to exceed a total of ten (10) years and six (6) months.

C.8 DELIVERY OF FOOD AND WATER

The supplies delivered under this contract shall be transported in delivery conveyances maintained to prevent tampering with and / or adulteration or contamination of the supplies, and if applicable, equipped to maintain a prescribed temperature. All delivery vehicles will also be subject to inspection at all times and all places by the Contracting Officers Representative, Post Veterinarian, and / or Law enforcement Officials. When the sanitary conditions of the delivery conveyance have led, or may lead to product contamination, adulteration, constitute a health hazard, the delivery conveyance is not equipped to maintain prescribed temperatures or the transport results in product "unfit for intended purpose", supplies tendered for acceptance may be rejected without further inspection. As the holder of a contact with the Department of Defense, it is incumbent upon the awardee to insure that all products and/or packaging have not been tampered or contaminated. Delivery conveyances will be locked or sealed at all times, except when actively loading or unloading. Unsecured vehicles will not be left unattended. All incoming truck drivers will provide adequate identification upon request. In the event of an identified threat to an installation, or a heightened force protection/Homeland Security threat Level, the contractor may be required to adjust delivery routes to minimize vulnerability risks and enable direct delivery to DOD facilities.

C.9 MEETINGS / BRIEFINGS

The CONTRACTOR will actively participate in any required meetings and briefings during the development of the business plan, contract, and during the period of contract performance. It is anticipated that these meetings and briefings will take place virtually, on-location at the Garrison, or any other mutually agreed upon location. Travel expenses are the responsibility of the respective parties.

C.10 RELATIONSHIP BETWEEN FUND, CONTRACTOR AND CONTRACTOR PERSONNEL

(a) The CONTRACTOR may act either as a development manager and/or as a CONTRACTOR/operator for the CSDV project. As such, the CONTRACTOR may arrange and subcontract for site, design, construction, and operation services. The responsibilities detailed in this section may be subcontracted to others as presented in the business plan.

(b) The Fund and the CONTRACTOR understand and agree that the services to be delivered under this contract, by the CONTRACTOR to the Fund, are non-personal services and the parties recognize and agree that no employer employee or master servant relationship exists or will exist under the contract between the Fund and the CONTRACTOR or between the Fund and the CONTRACTOR's personnel. CONTRACTOR personnel will be responsible, not to the Fund, but solely to the CONTRACTOR, who, in turn, shall be accountable to the Fund. The Fund will not exercise any supervision or control over CONTRACTOR personnel performing services under this contract. CONTRACTOR personnel will not be placed under the supervision, direction, or evaluation of a federal officer, military or civilian, in connection with performance under this contract. Likewise, CONTRACTOR personnel will not be placed in a position of command, supervision, administration or control over Department of Defense (DoD) military or civilian personnel, or personnel of another prime contractor, or become an integrated part of the Fund organization in connection with performance under this contract.

(c) The CONTRACTOR will be responsible for selecting personnel who are qualified to perform the required services, for supervising techniques used in their work and for keeping them informed of all improvements, changes, service delivery, and methods of operations. The services to be performed under this contract will not require the CONTRACTOR or its employees to exercise personal judgment and discretion on behalf of the Fund. The CONTRACTOR's employees will act and exercise personal judgment and discretion on behalf of the CONTRACTOR.

(d) Rules, regulations, directives and requirements which are in effect or issued during the contract term by the DoD, the Department of the Army, or subordinate commands, under their responsibility for law, order, administration, or security on the installation, shall be applicable to the operation of the facility and all contractor personnel or representatives and patrons who enter the installation. The facility of the contracted work is on a military installation and the CONTRACTOR will comply with all applicable rules and regulations.

(e) CONTRACTOR and CONTRACTOR's personnel (including sub-CONTRACTORs and its personnel) will not be considered employees of the Fund or of the government and shall not be eligible, by virtue of performance under this contract, for payment by the Fund or the government of entitlement and benefits accorded nonappropriated fund or federal employees.

C.11 U.S. DEPARTMENT OF LABOR WAGE DETERMINATIONS

(a) Pursuant to Section I.28, any contract awarded as a result of this solicitation will be subject to the Service Contract Act (SCA) of 1965, as amended. The CONTRACTOR will comply with all requirements of the Act and shall pay wages and fringe benefits not less than those specified in wage determinations issued by the Department of Labor. Applicable wage rates are at www.dol.gov for each Garrison location executed under this contract. Updated SCA wage determinations will be provided to the CONTRACTOR as applicable. The U.S. Department of Labor Wage Rates Requirements (Construction) applies to the construction, alteration, repair and operation of the facility at Garrisons, reference Section J for additional information.

(b) Per 41 USC 6707c, applicable collective bargaining agreements may set the minimum wage and fringe benefit requirements for the service contract.

C.12 CONTRACTOR EMPLOYEE ANTI-TERRORISM (AT)/OPERATIONAL SECURITY TRAINING REQUIREMENTS FOR WORKING ON GARRISIONS

(a) AT Level I Training. All CONTRACTOR employees, to include subcontractor employees, requiring access Army installations, facilities and controlled access areas will complete AT Level I awareness training within 30 calendar days after contract start date or effective date of incorporation of this requirement into the contract, whichever is applicable and annually thereafter. The CONTRACTOR will submit certificates of completion for each affected CONTRACTOR employee and subcontractor employee, to the COR or to the Contracting Officer, if a COR is not assigned, within 05 calendar days after completion of training by all employees and subcontractor personnel. AT level I awareness training is available at the following website: http://jko.jten.mil

(b) Access and General Protection / Security Policy and Procedures. CONTRACTOR and all associated subcontractor employees will provide all information required for background checks to meet installation access requirements to be accomplished by installation Provost Marshal Office, Director of Emergency Services or Security Office. CONTRACTOR workforce will comply with all personal identity verification requirements (NAF Clause BI.142, Personal Identity Verification of Contractor Personnel) as directed by DOD, HQDA and/or local policy. In addition to the changes otherwise authorized by the changes clause of this contract, should the Force Protection Condition (FPCON) at any individual facility or installation change, the Government may require changes in CONRTACTOR security matters or processes.

(c) For Contractor Employees Requiring Common Access Card (CAC) (AFMIS Access). Before CAC issuance, the CONTRACTOR employee requires, at a minimum, a favorably adjudicated National Agency Check with Inquiries (NACI) or an equivalent or higher investigation in accordance with Army Directive 2014-05. The CONTRACTOR employee will be issued a CAC only if duties involve one of the following: (1) Both physical access to a DoD facility and access, via logon, to DoD networks on-site or remotely; (2) Remote access, via logon, to a DoD network using DoD-approved remote access procedures; or (3) Physical access to multiple DoD facilities or multiple non-DoD federally controlled facilities on behalf of the DoD on a recurring basis for a period of 6 months or more. At the discretion of the sponsoring activity, an initial CAC may be issued based on a favorable review of the FBI fingerprint check and a successfully scheduled NACI at the Office of Personnel Management.

(d) For Contractor Employees NOT Requiring CAC, but Requiring Access to a DoD Facility or Installation. CONTRACTOR and all associated sub-contractors employees will comply with adjudication standards and procedures using the National Crime Information Center Interstate Identification Index (NCIC-III) and Terrorist Screening Database (TSDB) (Army Directive 2014-05/AR 190-13), applicable installation, facility and area commander installation/facility access and local security policies and procedures (provided by government representative), or, at OCONUS locations, in accordance with status of forces agreements and other theater regulations.

(e) iWATCH Training. Applicable for CONTRACTOR employees with an area of performance within an Army controlled installation, facility or area. The CONTRACTOR and all associated sub-CONTRACTORs will brief all employees on the local iWATCH program (training standards provided by the requiring activity ATO). This locally developed training will be used to inform employees of the types of behavior to watch for and instruct employees to report suspicious activity to the COR. This training will be completed within 30 calendar days of contract award and within 05 calendar days of new employees commencing performance with the results reported to the COR NLT 30 calendar days after contract award.

(f) Army Training Certification Tracking System (ATCTS) Registration is for CONTRACTOR employees who require access to government information systems (AFMIS). All CONTRACTOR employees with access to a government information systems will be registered in the ATCTS (Army Training Certification Tracking System) at commencement of services, and must successfully complete the DOD Information Assurance Awareness prior to access to the Information System and then annually thereafter.

C.13 TRANSITION SCHEDULE

(a) Assumption of Operations.

The CONTRACTOR will prepare to assume all responsibility for areas of operation according to the agreed upon terms and conditions of each task order. The CONTRACTOR will take all actions necessary for a smooth transition of the contracted operation. The CONTRACTOR will receive immediate controlled access to all assigned working areas of the CONTRACTOR operations. The COR will coordinate a final transition schedule for turnover of the operations.

(b) Termination of Operations (Including Expiration).

(1) The CONTRACTOR will promptly settle their account with the Fund including payment in full of all amounts due; yield up the premises, installed property and fixtures and all NAFI furnished property, clean and in good order and condition as when received (except for normal wear and tear); surrender all installation passes, decals, etc., for all employees; and complete satisfactory settlement of all customer complaints and claims. Termination of the contract does not release the CONTRACTOR from the obligation to satisfactorily settle customer complaints and claims.

(2) The CONTRACTOR will promptly remove all Concessionaire -furnished property including equipment, furniture and movable trade fixtures, etc., not purchased by the NAFI, and all CONTRACTOR -owned tools of the trade and supplies. Upon failure to yield up the premises or remove CONTRACTOR property, the

COR may enter the premises, cause CONTRACTOR property to be removed and stored in a warehouse at the CONTRACTOR'S expense and cause the premises to be cleaned and restored at the CONTRACTOR'S expense. If the CONTRACTOR authorizes and empowers the COR to take possession of CONTRACTOR property and dispose of same by public or private sale without notice, then from the proceeds of sale, the Fund will satisfy all costs including, the cost of the sale, handling, storage, etc., and any other indebtedness to the Fund will disburse any excess funds received from the sale to the CONTRACTOR.

(3) Upon expiration of this contract, the CONTRACTOR will arrange the transfer of the activity's telephone number to the new CONTRACTOR unless the servicing telephone company prohibits such transfer.

C.14 QUALITY CONTROL

(a) The CONTRACTOR will provide service of a high quality and will follow its operating and management plan as approved and accepted by the COR (reference. Section L.12.2 – Volume Submissions)

(b) The CONTRACTOR will establish, implement and maintain a quality control program to ensure contract compliance as approved by the NAFI.

(c) In addition, the CONTRACTOR will ensure "product quality" assurance and compliance in accordance with all applicable local, city, and state health and sanitation regulations.

(d) Failure of two (2) consecutive inspections within a six-month period by Army Veterinary Medicine/Preventative Medicine and/or other federal agencies having jurisdiction may be considered default of this contract subjecting the CONTRACTOR to possible termination of contract for cause.

C.15 QUALITY ASSURANCE

The Fund will conduct inspections according to the appropriate surveillance method, to compare the Contractor's performance to contract requirements and standards. The Fund reserves the right to monitor the contract in any manner necessary, at any time necessary, and at all places necessary to ensure that the services rendered conform to the contract requirements. In addition, US Army Public Health Command personnel may perform inspections at CSDVs. The CONTRACTOR will provide a copy of the inspection results to the COR. The CONTRACTOR will correct all recorded defects prior to re-inspection if the CONTRACTOR fails a service.

C.16. CUSTODIAL SERVICES

The concessionaire CONTRACTOR shall be responsible for providing custodial services to the facility under its control. Concessionaire shall keep the premises to include front of the house, back of the house, restrooms, offices, stockrooms, supply rooms and all equipment clean, orderly, secure, sanitary and in proper working condition. Concessionaire shall comply with safety and security regulations, applicable health, sanitation and environmental protection regulations as outlined in Army Regulation 40-5 and Technical Bulletin (TM Med) 530, Tri-Service Food Code.

C.17 CASH TRANSACTION ROUNDING POLICY

Per the U.S. Department of the Treasury, the one-cent coin (penny) remains legal tender and must be accepted by concessionaires as presented by patrons for payment. As the circulation of pennies decreases over time, the Concessionaire may implement symmetrical rounding whereby if the final digit of the total transaction amount is 1, 2, 6, or 7 cents, the amount tis rounded down to the nearest multiple of five. If the final digit is 3, 4, 8 or 9 cents, the amount is rounded up to the nearest multiple of five. Transactions totaling exactly $0.01 or $0.02 may be rounded up to $0.05. This rounding policy applies only to the final transaction total of cash transactions. All non-cash transactions (including but not limited to gift cards, credit card, debit card, and electronic transfers) shall be processed at their exact-cent value.

The Concessionaire shall provide clear and visible notice to all customers regarding this rounding practice at the point of sale.

C.18. EXECUTIVE ORDER "PRIORITIZING WARFIGHTER IN DEFENSE CONTRACTING"

Subject EO currently does not apply as FMWR is not part of the defense industrial base and we do not have critical weapons, supplies, and equipment. However, pending additional guidance, the EO may apply to NAF in the future.

C.19. CASHLESS VENUES

The implementation of a cashless operation is contingent upon a comprehensive business case and local garrison considerations. The business case must, at a minimum, analyze the operational benefits and potential impacts on customer experience. A cashless operation, regardless of the business case and local aspects, will only be implemented if it is not prohibited by any applicable federal mandate.

**********- END OF SECTION C -**********

PART I – THE SCHEDULE
SECTION D – PACKING AND MARKING

D.1 PACKAGING (FOOD PRODUCTS)

(a) Food products ordered shall originate either in an establishment (1) listed in the Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement; or (2) which has been inspected under the guidance of the United States Department of Commerce or the United States Department of Agriculture.

(b) Products shipped shall show the date of packing. All food and beverage products shall be identified with readable dates, such as a “use by” date, date of production, date of processing/ pasteurizing, sell by date, or pickup date. For shelf-stable items, open dating is preferred but coding is acceptable. CONTRACTORS not using open dating shall give the COR and Post Veterinarian at each Garrison, a code key explaining actual date of production or processing and original manufacturer. (Reference Section E.4 – Coded Data)

D.2 PACKAGING (REFRIGERATED, FROZEN AND DRIED PRODUCTS)

(a) Items requiring "Protection from Heat" shall be shipped and stored at a temperature below 70 degrees Fahrenheit.

(b) Items requiring "Chilled" conditions shall be shipped and stored under refrigeration of 32 to 45 degrees Fahrenheit.

(c) Items requiring "Frozen" conditions shall be shipped and stored under refrigeration at 0 to 5 degrees Fahrenheit.

(d) All fresh poultry items shall be in ice packed cartons or gas flash cartons.

(e) All fresh seafood items shall be in ice packed cartons.

(f) Frozen products shall be wrapped in polyurethane wrapping.

D.3 PRESERVATION, PACKAGING, PACKING AND SHIPPING

All beef, veal, lamb and pork items shall be packaged in a vacuum process or shall be individually wrapped in a polyurethane wrapping. Commercial cartons shall be used for all boxed items.

********** **- END OF SECTION D -** **********

PART I – THE SCHEDULE
SECTION E – INSPECTION AND ACCEPTANCE

E.1 ACCEPTANCE OF SERVICES

Acceptance of services and deliverables will be made monthly, in writing, by the COR in a composite letter. The following areas will be considered by the Fund in determining the acceptability of services and deliverables:

(a) Timely Payment of contract fee to the Fund.

(b) Compliance with requirements in the contract.

(c) Response to problems within 24 hours and correct problem as agreed between Contracting Officer or Contracting Officer Representative and CONTRACTOR.

(d) Inspection of the CSDV facility by the COR or other authorized personnel for compliance with terms and conditions of the contract.

(e) Inspection by the Veterinary Services for compliance with food handling and sanitation standards.

E.2 INSPECTION (FOOD ITEMS) FROM SOURCES

Food Products shall be packaged and packed in containers which offer reasonable protection from contamination and shall originate from a sanitarily approved source. Products (other than those declared of little health hazard) bearing labels reading "Distributed By" are not acceptable unless the source of manufacture is indicated on the label or an accompanying certificate.

E.3 INSPECTION (DELIVERY VEHICLES)

The delivery vehicles used to deliver items under this contract shall be subject to inspection at all reasonable times and at all places by the Contracting Officer's Representative (COR) and/or the Post Veterinarian at the installation receiving the delivery. Supplies transported in vehicles, which are not sanitary, or which are not equipped to maintain prescribed temperatures, may be rejected without further inspection.

E.4 CODED DATA

(a) All manufacturer product code(s) shall be made available upon request and as deemed necessary by the Fund for any/all products delivered under this contract. Data codes shall be stamped or embossed on all individual packages of meat, poultry, fish, dairy and prepared items at the point of processing.

(b) Coding shall represent the date of pasteurization, production, manufacture or processing or a system may be used representing pickup date. If the latter system is used, the coding key shall clearly explain the actual date of pasteurization, production, manufacture or processing.

(c) Failure to supply appropriate coding information may cause the rejection of subsistence to be delivered under this contract.

E.5 RIGHT OF INSPECTION

(a) The Fund, through the Contracting Officer or their designee, shall have the right to inspect the facility or conduct quality assurance reviews of the CONTRACTOR operations to assure the CONTRACTOR's compliance with the terms and conditions of this Contract and applicable statutes, and regulations. The Fund shall have the right to conduct said inspections/quality assurance reviews at all times throughout the term of this contract.

(b) Inspection/reviews will normally occur sometime during normal working hours, Monday through Friday, excluding Federal holidays; however, the Fund reserves the right to inspect at any time, if deemed necessary by the

Contracting Officer. Inspections will not unnecessarily upset the operation of the facility or interrupt employees in the course of normal job functions, except in an emergency declared by the Fund.

E.6 INSPECTION OF SERVICES

(a) The CONTRACTOR shall provide and maintain an inspection system acceptable to the Fund covering the services under this contract. Complete records of all inspection work performed by the CONTRACTOR shall be maintained and made available to the Fund during contract performance and for as long afterwards as the contract requires.

(b) The Fund has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Fund shall perform inspections and tests in a manner that will not unduly delay the work.

(c) If the Fund performs inspections or tests on the premises of the CONTRACTOR or a sub-CONTRACTOR, the CONTRACTOR shall furnish, and shall require sub-Contractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(d) If any of the services do not conform to contract requirements, the Fund may require the CONTRACTOR to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the Fund may –

(1) Require the CONTRACTOR to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce the contract price to reflect the reduced value of the services performed.

(e) If the CONTRACTOR fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Fund may-

(1) By contract or otherwise, perform the services and charge to the CONTRACTOR any cost incurred by the Fund that is directly related to the performance of such service; or

(2) Terminate the contract for default.

(End of clause)

E.7 INSPECTION OF CONSTRUCTION. *Reference Section J.16 – Construction Guide V3.*

********** **- END OF SECTION E -** **********

PART I – THE SCHEDULE
SECTION F – DELIVERIES OF PERFORMANCE

F.1 DELIVERABLES AND ONGOING OPERATIONS

(a) The deliverables will be identified in the Fund's accepted CONTRACTOR proposal and below:

Description	Due Date
In-brief meeting at a to be determined location	Approximately 7 days after contract award. Specific date will be selected by the Contracting Officer COR or Program Manager
Joint Inventory with Transfer and Contractor acceptance of GFE	No later than 15 days after contract award, and no less than annually thereafter.
Insurance Certificate	No later than 5 days after contract award to Contracting Officer.
CSDV Operations	Upon Notice to Proceed by Contracting Officer and each day thereafter.
Training AT/OPSEC	30 days after award, or employment, and thereafter annually. Completion certificates to COR
ESM Reconciliation and Payments – Concession Fee	No later than 30 days following the end of the prior month to the COR
All Work	Modification – Acceptance of CONTRACTOR final schedule establishing Construction Facility Completion Date
Loss or Damage to GFE/GFP	Within 24 hours of Occurrence of Loss (to include type of property and circumstances of loss.) to COR
Incident Report of Disturbances: i.e. Vandalism, robbery, etc.	Immediately with a detailed formal report in writing within 72 hours of incident to COR.
Pre-Final Inspection	7 Calendar Days after Government Inspection to provide response to corrective action and date to complete - COR
Final Inspection	14 Calendar Days after all corrections made to request by the CONTRACTOR - COR
Metrics Data	Until reports are automated and pulled directly from Contractor's system pursuant to Section C.6.3(a)(5), reports shall be submitted to the Primary COR by the 10th day of the month following the previous month.

(b) All work on this project shall be completed within the number of calendar days stated in the Items of Work listed above, inclusive of all review periods and Government phasing requirements, if applicable and where specified. If the Government accepts a proposal for a completion period of lesser duration, and such proposal alters the time periods for review and phasing, the contract shall be read to include the original periods for review and phasing. If a completion period of lesser duration is proposed and accepted by the Government, the accepted completion period will replace the original construction schedule listed above in the Schedule. If an alternate completion period is proposed, the CONTRACTOR's pricing information for the alternate proposed completion period shall reflect the proposed alternate completion period.

F.2 PLACE OF PERFORMANCE

Reference Section C.5 – Locations.

F.3 CONTRACT PERIOD OF PERFORMANCE

The term of this contract, unless sooner terminated, shall be for a five-year base period that may be extended for five optional, one-year increments as determined in each Task Order issued against the resulting IDIQ contract. Each Task Order issued against the resulting IDIQ contract will specify the five-year base term for each location.

F.4 FEDERAL HOLIDAYS

(a) Contractor must operate establishment(s) 365 days to include holidays.

(b) The U.S. Government recognizes the Legal Holidays established by Federal Statute as listed below:

New Year's Day, Martin Luther King Jr's Birthday, President's Day, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving, Christmas

(c) When these holidays are observed, a majority of the military/civilian workforce will not work, and the military workforce will have an additional day off before/after each legal holiday noted as a "training holiday". Therefore, food operations may substantially be reduced on and around Federal Holidays.

(d) When any of the Legal Holidays falls on a Saturday, the preceding Friday is observed; when any such day falls on a Sunday, the following Monday is observed. Additionally, the installation and most operations will be closed as follows:

(1) Any other day designated by Federal Statute
(2) Any other day designated by Executive Order
(3) Any other day designated by a Presidential Proclamation
(4) Any day designated by the Installation Commander

F.5 STOP-WORK ORDER

(a) The Contracting Officer may, at any time, by written order to the CONTRACTOR, require the CONTRACTOR to stop all, or any part, of the work called for by this contract for a period of ninety (90) days after the order is delivered to the CONTRACTOR, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the CONTRACTOR shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop-work is delivered to the CONTRACTOR, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the CONTRACTOR shall resume work. The Contracting Officer shall make an equitable

adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-

(1) The stop-work order results in an increase in the time required for, or in the CONTRACTOR's cost properly allocable to, the performance of any part of this contract; and

(2) The CONTRACTOR asserts its right to the adjustment within thirty (30) days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the NAFI, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.
(End of clause)

F.6 <u>SUSPENSION OF WORK</u>

(a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the NAFI.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified) an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

(c) A claim under this clause shall not be allowed (1) for any costs incurred more than 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 the final payment under the contract.
(End of clause)

********** **- END OF SECTION F -** **********

PART I – THE SCHEDULE
SECTION G – CONTRACT ADMINISTRATION DATA

G.1 CONTRACT ADMINISTRATION

The contract will be administered by:

U.S. Army Installation Management Command (IMCOM)
HQ DFMWR, NAF Contracting Division
ATTN: AMIM-WRQ (Leslie M. Perez *or as indicated by modification to the contract)*
2405 Gun Shed Road
JBSA Fort Sam Houston, TX 78234

G.2 APPOINTMENT OF A CONTRACTING OFFICER'S REPRESENTATIVE (COR)

The Contracting Officer will appoint, in writing, the Contracting Officer's Representatives (COR's) to be the liaison between the CONTRACTOR and the Contracting Officer as specified by each appointment letter. The COR is not empowered to issue, authorize, or agree to any resulting contract, nor to re-delegate his authority as COR. The CONTRACTOR shall be provided a copy of the appointment letter.

G.3 MODIFICATIONS

Any modifications by the Contracting Officer to this Agreement shall be accomplished in writing. The terms of this Agreement will reflect all policy changes set forth in any subsequent updates to the AR-215-4, entitled "Nonappropriated Fund Contracting," or any successor regulation.

G.4 FINANCIAL RETURN

In return for the business opportunity granted to the CONTRACTOR, a financial return to the Fund is required to be paid by the CONTRACTOR for the term of the contract (Reference Section B.3). The Fund's financial return will be negotiated and made part of the contract. All payments due under the terms of this contract are required to be paid on or before the date they are due in order to avoid the mandatory sanctions imposed by the Debt Collection Act of 1982 (31 U.S.C. Section 3717).

G.5 PAYMENT TYPE / FREQUENCY OF PAYMENT

(a) The monthly revenue fee paid by the CONTRACTOR to the Fund shall be paid via EFT no later than 30 days following the end of the previous month.

(b) Supporting details of the operations, such as sales and revenue report shall be provided to the COR at the same time as the CONTRACTOR prepares to provide payment. The supporting detail shall include the cash register, point of sale terminal, or similar business machine detail tape for the operations. The CONTRACTOR shall certify the completeness and accuracy of all reports using language such as "I certify that the attached reports are complete and accurate". A management official of the Concessionaire shall sign all such certificates.

(c) The Fund will reimburse the CONTRACTOR for ESM meals via EFT in accordance with Section I.40 – Payments, upon verification and acceptance by the appointed COR.

********** **- END OF SECTION G -** **********

PART I - SCHEDULE
SECTION H – SPECIAL CONTRACT REQUIREMENTS

H.1 FEDERAL AND STATE TAXES

The CONTRACTOR is not an agent of the Fund, the U.S. Army, or the United States and does not in any way enjoy any sovereign immunity. The CONTRACTOR is responsible for determining what federal, state, and local taxes apply to its operation of the facility. ESM meals provided by the CONTRACTOR and reimbursed by the Fund will be exempt from all taxes.

H.2 RELEASE OF NEWS INFORMATION

The CONTRACTOR or its agents will not make news releases (including photographs and films, public announcements or statements) concerning any aspect of a resultant contract without the prior approval of the Contracting Officer.

H.3 ADVERTISING

The CONTRACTOR shall not represent, in any manner, expressly or by implication, that the products or services purchased under this contract, or any task order placed against this IDIQ contract are endorsed by any element of the United States Government.

H.4 PHYSICAL SECURITY

The CONTRACTOR shall be responsible for the physical security of the facility. Each Garrison location will provide police and fire protection at no cost to the CONTRACTOR. The CONTRACTOR shall adhere to installation requirements concerning physical security of facilities. The CONTRACTOR shall also adhere to all fire prevention policies established by the installation, and when applicable, federal, state, county and local government policies. The CONTRACTOR shall ensure that all facilities under its control comply with physical security and fire prevention standards and requirements.

H.5 INSURANCE

(a) The CONTRACTOR shall maintain, during the term of the contract and any option period, the types of insurance and coverage listed below. All liability insurance coverage will name the United States and the Fund as an additional insured for claims, demands, suits, judgments, costs, charges, and expenses arising out of or in connection with any loss, damage, or injury resulting from the negligence or other fault of the CONTRACTOR, CONTRACTOR's agents, representatives, or employees. The insurance coverage maintained is to have coverage amounts complying with the state or military Installation requirements, whichever is greater, where this contract is performed:

	TYPE OF INSURANCE	MINIMUM AMOUNTS
(1)	Workman's Compensation and all occupational disease.	As Required by State/County Law
(2)	Employer's liability including all occupational disease when not so covered in Workmen's Compensation above.	$1,000,000 per accident
(3)	General Liability (Comprehensive) Bodily Injury and Property Damage per occurrence	$5,000,000

(4)	Automobile Liability (Comprehensive)	
	Bodily Injury per person	$1,000,000
	Bodily Injury per occurrence	$5,000,000
	Property Damage per accident	$ 500,000
(5)	Product Liability Insurance	$1,000,000
(6)	Bailee Property Insurance	$5,000,000

NOTE:

(a) All General Liability, CONTRACTOR's Protective Liability, and Professional Liability Insurance policies shall be written on a per "occurrence" basis. Policies written on a "claims made" basis are not acceptable unless approved in advance by the Contracting Officer.

(b) Prior to the commencement of work hereunder and **not less than five (5) calendar days** after contract award and for each task order issued after award, the CONTRACTOR shall furnish to the Contracting Officer a certificate or written statement of the above required insurance. The policies evidencing required insurance shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interest of the NAFI in such insurance shall not be effective for such period as may be prescribed by the laws of the State in which this contract is to be performed and in no event less than thirty (30) days after written notice thereof to the Contracting Officer. Insurance “Certificate Holder” shall be made out to the following:

Department of the ARMY
IMCOM, HQ DFMWR, NAF Contracting
Attention: AMIM-WRQ (Leslie M. Perez)
Campus Style Dining Venue (CSDV)
2405 Gun Shed Road, Building 2261, Room 1200
Joint Base Fort Sam Houston, TX 78234

and submitted to:

leslie.m.perez9.naf@army.mil

(c) The CONTRACTOR agrees to insert the substance of this clause, including this paragraph, in all subcontracts hereunder.

(d) Should the CONTRACTOR’s business reside outside of the United States, insurance coverage shall be maintained in the above referenced categories in equivalent coverage amounts.

H.6 SECURITY

(a) The CONTRACTOR agrees to employ persons as employees or agents who shall be citizens of the United States of America, or persons as employees, servants or agents whose loyalty can otherwise be established by appropriate security checks.

(b) The CONTRACTOR agrees to obtain from all employees and agents of the CONTRACTOR, at the time of their separation, any and all installation passes issued to such persons during their employment.

H.7 IDENTIFICATION FOR CONTRACTOR'S EMPLOYEES

(a) The CONTRACTOR without expense to the Fund shall provide for each employee, working on this contract, an identification badge as may be approved and directed by the Contracting Officer. Each such employee shall be required to wear his badge upon their person at all times while on duty at the site of work or at other times and places where identification is required, and in such manner that it will be plainly visible as a means of identification. If required by the Contracting Officer, the CONTRACTOR shall comply with the reasonable direction of the Contracting Officer to obtain fingerprints and other means of identification for all such employees.

(b) In the event the Fund requires registration of all employees working on this project, the CONTRACTOR shall cause them to be registered at such place and in such manner as the Contracting Officer may direct. Upon notification that registration is to be affected, the CONTRACTOR shall not permit any employee to work on the job site until such employee has completed the required registration.

H.8 REPRESENTATION

The CONTRACTOR shall not represent or permit itself or its employees to be represented as agents or employees of the Fund or the United States Government and shall not use the Fund's name on advertising material. The CONTRACTOR shall not represent, expressly or by implication, that the services provided under this contract are endorsed by any element of the Army or Fund.

H.9 GRATUITIES

(a) The right of the CONTRACTOR to proceed may be terminated by written notice if, after notice and hearing, the agency head or designee determines that the CONTRACTOR, its agent, or other representative--

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an official, or employee of the United States or the NAFI; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) Any court having lawful jurisdiction may review the facts supporting this determination.

(c) If this contract is terminated under paragraph (a) above, the NAFI is entitled to pursue the same remedies as in a breach of the contract.

(d) The rights and remedies of the NAFI provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

H.10 FORCE PROTECTION

The CONTRACTOR recognizes that each installation where work will be performed is a military facility subject to force protection requirements that changes from time to time based on the threat level. Force protection requirements may result in searches of CONTRACTOR personnel, supplies and vehicles. During heightened threat levels other restrictions, such as restrictions on guests and temporary closures, are also possible. The CONTRACTOR recognizes that force protection requirements are a recognized non-compensable risk.

H.11 SAVE HARMLESS

The CONTRACTOR shall save harmless the Fund and the United States Government from any claims of third parties arising out of or from accidents or incidents involving acts or omissions of the CONTRACTOR, its officers, agents, or employees, occurring as a result of performance of the terms and conditions of this contract or as a result of operation of Fund furnished equipment or materials, if any, or of the performance of the services under this contract.

H.12 PROHIBITED ACTIVITIES

The CONTRACTOR and its employees (including sub-CONTRACTOR's and its employees) shall not:

(a) Insult, use offensive or profane language, or gestures to, or in the presence of, or argue or be discourteous to, any patrons or to other individuals in the presence of patrons.

(b) Use, possess, sell, transfer, or be under the influence of alcohol (possess and sell only under normal business operation), narcotics, illegal drugs, or hallucinatory agents at either the dining facility site or elsewhere on the premises of each Garrison property.

(c) Engage in, or permit gambling or the use of any device, which promotes gambling to include the sale of lottery tickets on the premises.

(d) Loiter in other than its approved areas.

(e) Eat, drink, or use tobacco products in the dining area. Smoking is permitted only in designated areas.

(f) The Fund reserves the right to demand removal of CONTRACTOR personnel for "Just Cause." "Just Cause" shall include, but not be limited to, rudeness to guests and patrons, abusive language and behavior, in addition to any prohibited activity included in this section. The CONTRACTOR shall promptly remove any CONTRACTOR employee upon a finding by the Contracting Officer that the presence of such employee or agent endangers successful contract performance or is inimical to the best interests of the NAFI.

H.13 SAFETY REQUIREMENTS

(a) The CONTRACTOR agrees to keep activities covered by this contract at all times clean, orderly, neat in appearance, and to comply with local, State, or Federal public health regulations; to maintain all facilities necessary for the handling, processing, storing, freezing, transporting and supply of food/beverages in a clean, orderly, and sanitary manner in accordance with the above noted regulations; to make no alterations in the premises without prior approval and to comply with all installation fire and safety regulations.

(b) The CONTRACTOR shall employ persons who meet the appropriate health standards as prescribed by local, State or Federal public health regulations for the particular type of employment for which engaged. The CONTRACTOR shall comply with all Occupational Safety and Health Administration (OSHA) regulations and publications. The Fund reserves the right to close the food facility to protect the health of employees and visitors.

(c) The CONTRACTOR shall conform to all each Garrison specific fire, security and safety regulations and requirements covering such premises in effect at any time during the performance of this contract. The CONTRACTOR agrees to take all necessary steps and precautions to prevent accidents and preserve the life and health of CONTRACTOR and Government employees performing or in any way coming in contact with performance of this contract on such premises. The COR upon request will furnish information concerning safety, fire and security regulations to the CONTRACTOR. Any violation of such regulations, unless immediately corrected as directed by the COR, shall be grounds for termination of this contract.

(d) The CONTRACTOR certifies that no article, ordered by or sold to a Fund customer, is a misbranded package with the meaning of the Federal Hazardous Substance Labeling Act.

(e) Each Garrison DPW Facilities Management Office(s), Facilities Safety Office(s), or the COR or his/her designated representative, or any other person designated by them shall have the right to inspect the premises and operations of the CONTRACTOR to assure full compliance with the provisions of this contract and with the standards of service and sanitation, including all facilities necessary for processing, storing, transporting, and handling foods/beverages of this contract.

H.14 NOTICE OF INCIDENTS

The CONTRACTOR shall promptly notify the Contracting Officer and COR of any accident or other event at or related to the establishment that result in damage to any area or the NAFI, or which results in injury or death to any patron, employee, or other person. Further, the CONTRACTOR shall provide the Contracting Officer and COR such additional information concerning such accident or event as she may reasonably require. The CONTRACTOR shall cooperate with the Fund personnel, police, the government/garrison representative, and other public officials in any investigation into such accident or event.

H.15 DAMAGE / LOSS

The CONTRACTOR shall release the Fund from all liability for damage or loss due to criminal acts or acts of terrorism in the operation of this contract or due to theft, fire, storm, flood, wind, and damage or destruction through any force of nature.

H.16 SAFEGUARDING OF CONTRACTOR'S CASH OR EQUIVALENT CASH DEPOSITS ON ARMY INSTALLATIONS

(a) The CONTRACTOR shall be responsible for physical security of the facility and contents. Security procedures will be in accordance with AR 190-51. Copies of this regulation will be furnished by the COR upon request. The CONTRACTOR shall prepare a physical security plan for approval by the COR and Security Office.

(b) When cash (or equivalent cash value deposits) in excess of $100.00 are kept in the establishment during non-operating hours, they will be secured in a steel safe equipped with a three-position combination tumbler-locking device. The CONTRACTOR's physical security will be subject to inspection by the COR, the Agency Security Office and the Installation Force Protection Officer.

H.17 TRANSFERS OR ASSIGNMENTS

(a) The CONTRACTOR shall neither transfer nor assign this contract or a controlling interest therein, nor grant any interest, privilege, or license whatsoever in connection with this contract, nor shall this contract be assignable or transferable by process of operation of law including, but not limited to, insolvency proceedings, bankruptcy, or intestacy or in any other manner whatever without prior written approval of the Contracting Officer.

(b) Additionally, the CONTRACTOR may not enter into any agreement with any entity or person, except employees of the CONTRACTOR, to exercise substantial management responsibilities for the operation authorized hereunder or any part thereof without prior written approval of the Contracting Officer.

H.18 REMOVAL OF CONTRACTOR'S EMPLOYEES

The CONTRACTOR agrees to utilize only experienced, responsible and capable people in the performance of the work. The Contracting Office may require that the CONTRACTOR remove employees who endanger persons or property, or whose continued employment under this contract is inconsistent with the interests of military security.

H.19 DATA OWNERSHIP

(a) The Fund shall retain ownership of all data and information provided to CONTRACTOR by the Fund.

(b) The Fund shall have the right, without compensation to or further approval of the CONTRACTOR, to use, duplicate or distribute deliverable products, data, reports, analysis, documentation and other information prepared by CONTRACTOR and delivered to the Fund relating to the services performed pursuant to this contract, and such rights shall continue after any expiration, completion, or termination of this contract.

H.20 KEY CONTROL

(a) The CONTRACTOR shall be responsible for the control of all keys for assigned areas. The CONTRACTOR shall establish and implement methods of ensuring that all keys issued to the CONTRACTOR by the garrison are not lost or misplaced and are not used by unauthorized personnel. Keys shall not be duplicated and all lost keys shall be reported to the COR. Guidance for physical security and key control will be provided by the COR.

(b) When the replacement of lock(s) or re-keying is performed by the garrison due to the negligence of the CONTRACTOR and/or his employee(s), the total cost of re-keying or the replacement of the lock(s) shall be charged to the CONTRACTOR. This cost shall include both labor and material. In the event a master key is lost or duplicated, all locks and keys for that system shall be replaced by the garrison, and the total cost shall be charged to the CONTRACTOR.

(c) It is the responsibility of the CONTRACTOR to prohibit the use of keys issued by the garrison to any persons other than the CONTRACTOR's employees. It is also the responsibility of the CONTRACTOR to prohibit the opening of locked areas by the CONTRACTOR's employees to permit the entrance of persons other than CONTRACTOR's employees engaged in the performance of assigned work in those areas, or personnel authorized by the COR.

H.21 PHASE-IN PERIOD

(a) The Contractor shall provide a complete phase-in plan to ensure a smooth transition in the change of work effort. The plan shall identify all work required of the contractor in training the new contractor employees of the equipment and food service operation.

(b) Concessionaire shall have all renovation completed, equipment, vehicles, license, etc. in place and employees fully trained no later than **120 days** unless an exception is requested and approved after contract award, and award of each task order thereafter.

(c) First day of operation. Food concession shall be open for business on a date to be determined upon contract award.

(d) Concessionaire shall coordinate with the COR a phase-in period for each awarded location.

H.22 PHASE-OUT PERIOD

(a) The NAFI will have the option and first right to purchase any or all of the concessionaire furnished property including equipment, furniture and movable trade fixtures, etc. used in the facility by concessionaire for this contract as prescribed in Section C.6.4.

(b) Concessionaire shall promptly settle Concessionaire's account with the NAFI including payment in full of all amounts due; yield up the premises, installed property and fixtures, and all NAFI furnished property, clean and in as good order and condition as when received (damage due to acts of God or the US Government, and ordinary wear and tear excepted); surrender all installation passes, decals, etc. for all concession personnel; and complete satisfactory settlement of all customer complaints and satisfactorily settle customer complaints and claims.

(c) Concessionaire shall promptly remove all Concessionaire furnished property not purchased by the NAFI including equipment, furniture and movable trade fixtures, tools of the trade and supplies. Property shall be removed consistent with phase-out plan approved by the COR. Upon failure to yield up the premises or remove concessionaire's property, the Contracting Officer or his/her duly appointed representative, may enter the premises to have concessionaire's property removed and stored at concessionaire's expense and have the premises cleaned and restored at concessionaire's expense. If the concessionaire is indebted to the NAFI, concessionaire authorizes and empowers the NAFI to take possession of concessionaire's property and dispose the same by public or private sale without notice, and out of the proceeds of sale, satisfy all costs to the NAFI including costs of sale, handling, storage, etc., and any other indebtedness to the NAFI.

H.23 PROHIBITION ON PROCUREMENT OF CERTAIN ITEMS CONTAINING PERFLUOROOCTANESULFONATE OR PERFLUOROOCTANOIC ACID (APR 2023)

(a) Effective April 1, 2023, in accordance with section 333 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283), the Department of Defense may not procure any covered items that contain perfluorooctane sulfonate (PFOS) or perfluorooctanoic acid (PFOA).

(b) A covered item means the following:

(1) Nonstick cookware or cooking utensils for use in galleys or dining facilities.

(2) Upholstered furniture, carpets, and rugs that have been treated with stain resistant coatings.

(c) The Contractor shall not provide any covered items containing PFOS or PFOA in performance of this contract, task order, delivery order, or blanket purchase agreement order.

(d) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts for any covered item, including subcontracts for commercial products (including commercially available off-the-shelf items) and commercial services.

********** **- END OF SECTION H -** **********

PART II– CONTRACT CLAUSES
SECTION I – CONTRACT CLAUSES, NONAPPROPRIATED FUND

I.1 DEFINITIONS (JUN 2025) BI.001

(a) This part-

(1) Defines words and terms that are frequently used in the Morale Welfare and Recreation Nonappropriated Contracting Regulation AR 215-4;

(2) Provides cross-references to other definitions in AR 215-4 of the same word or term; and

(3) Provides for the incorporation of these definitions in solicitations and contracts by reference.

(b) Other clauses may define other words or terms and those definitions only apply to the part, subpart, or section where the word or term is defined.

(c) A word or a term, defined in this section, has the same meaning throughout this AR 215-4, unless-

(1) The context in which the word or term is used clearly requires a different meaning; or

(2) Another clause part, subpart, or section provides a different definition for the particular part or portion of the part.

"Architect-engineer services", as defined in 40 U.S.C. 1102, means-

(1) Professional services of an architectural or engineering nature, as defined by State law, if applicable, that are required to be performed or approved by a person licensed, registered, or certified to provide those services;

(2) Professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

(3) Those other professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

"Assignment of claims" means the transfer or making over by the contractor to a bank, trust company, or other financing institution, as security for a loan to the contractor, of its right to be paid by the NAFI for contract performance.

"Best value" means the expected outcome of an acquisition that, in the NAFI's estimation, provides the greatest overall benefit in response to the requirement.

"Change-of-name agreement" means a legal instrument executed by the contractor and the NAFI that recognizes the legal change of name of the contractor without disturbing the original contractual rights and obligations of the parties.

"Change order" means a written order, signed by the contracting officer, directing the contractor to make a change that the Changes clause authorizes the contracting officer to order without the contractor's consent.

"Chief Acquisition Officer" means an executive level acquisition official responsible for agency performance of acquisition activities and acquisition programs.

"Claim" 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 the contract.

"Classified information" means any knowledge that can be communicated or any documentary material, regardless of its physical form or characteristics, that-

(1) (i) Is owned by, is produced by or for, or is under the control of the NAFI; or

(ii) Has been classified by the Department of Energy as privately generated restricted data following the procedures in 10 CFR 1045.21; and

(2) Must be protected against unauthorized disclosure according to Executive Order12958, Classified National Security Information, April 7,1995, or classified in accordance with the Atomic Energy Act of 1954.

"Commercial component" means any component that is a commercial product.

"Commercial computer software" means any computer software that is a commercial product or commercial service.

"Commercial Item" means a product or a service (e.g., items, supplies, materials, components) sold or traded to the general public in the course of conducting normal business operations at established catalog or market prices.

"Commercial product" means-

(1) A product, other than real property, that is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes, and-

(i) Has been sold, leased, or licensed to the general public; or

(ii) Has been offered for sale, lease, or license to the general public;

(2) A product that evolved from a product described in paragraph (1) of this definition through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a solicitation;

(3) A product that would satisfy a criterion expressed in paragraph (1) or (2) of this definition, except for-

(i) Modifications of a type customarily available in the commercial marketplace; or

(ii) Minor modifications of a type not customarily available in the commercial marketplace made to meet NAFI requirements. "Minor modifications" means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;

(4) Any combination of products meeting the requirements of paragraph (1), (2), or (3) of this definition that are of a type customarily combined and sold in combination to the general public;

(5) A product, or combination of products, referred to in paragraphs (1) through (4) of this definition, even though the product, or combination of products, is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor; or

(6)A nondevelopmental item, if the procuring agency determines the product was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local governments or to multiple foreign governments.

"Commercial service" means-

(1) Installation services, maintenance services, repair services, training services, and other services if-

(i)Such services are procured for support of a commercial product as defined in this section, regardless of whether such services are provided by the same source or at the same time as the commercial product; and

(ii)The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the NAFI;

(2) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions. For purposes of these services-

(i) Catalog price means a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public; and

(ii) Market prices means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors; or

(3) A service referred to in paragraph (1) or (2) of this definition, even though the service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

"Commercially available off-the-shelf (COTS) item" Is any item or supply (including construction material) that is a commercial item as defined in paragraph (a) in this section and is sold in substantial quantities in the commercial marketplace and is offered to the NAFI under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace. COTS require no unique NAFI modifications or maintenance over the life cycle of the product to meet the requirements of the NAFI.

"Component" means any item supplied to the NAFI as part of an end item or of another component, unless specifically defined otherwise herein.

"Computer database" or "database" means a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

"Computer software" means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated, or recompiled. It does not include computer databases or computer software documentation.

"Computer software documentation" means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

"Construction" means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. For purposes of this definition, the terms "buildings, structures, or other real property" include, but are not limited to, improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, cemeteries, pumping stations, railways, airport facilities, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, and channels. Construction does not include the manufacture, production, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft, or other kinds of personal property.

"Contiguous United States" (CONUS) means the 48 contiguous States and the District of Columbia.

"Continued portion of the contract" means the portion of a contract that the contractor must continue to perform following a partial termination.

"Contract" means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the NAFI to an expenditure of nonappropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under

which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C.6301, et seq.

"Contract clause" or "clause" means a term or condition used in contracts or in both solicitations and contracts, and applying after contract award or both before and after award.

"Contract modification" means any written change in the terms of a contract.

"Contracting" means purchasing, renting, leasing, or otherwise obtaining supplies or services from nonfederal sources. Contracting includes description (but not determination) of supplies and services required, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration. It does not include making grants or cooperative agreements.

"Contracting activity" means an element of an agency designated by the agency head and delegated broad authority regarding acquisition functions.

"Contracting office" means an office that awards or executes a contract for supplies or services and performs post award functions.

"Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. This authority is granted through the means of a certificate of appointment (warrant). The term includes certain authorized representatives of the contracting office acting within the limits of their warrant authority as delegated by the contracting officer. Administrative contracting officer (ACO) refers to a contracting officer who is administering contracts. Termination contracting officer (TCO) refers to a contracting officer who is settling terminated contracts. A single contracting officer may be responsible for duties in any or all of these areas. Reference in this regulation to an ACO or TCO does not (a) require that a duty be performed at a particular office or activity or (b) restrict in any way a contracting officer in the performance of any duty properly assigned.

"Contracting officer's representative" (COR) means an individual, including a contracting officer's technical representative (COTR), designated, and authorized in writing by the contracting officer to perform specific technical or administrative functions.

"Cost realism" means that the costs in an offeror's proposal-

(1) Are realistic for the work to be performed;

(2) Reflect a clear understanding of the requirements; and

(3) Are consistent with the various elements of the offeror's technical proposal.

"Day" means, unless otherwise specified, a calendar day.

"Debarment" means action taken by a debarring official under FAR 9.406 to exclude a contractor from Government contracting and Government-approved subcontracting for a reasonable, specified period; a contractor that is excluded is "debarred."

"Delivery order" means an order for supplies placed against an established contract or with Government sources.

"Effective date of termination" means the date on which the notice of termination requires the contractor to stop performance under the contract. If the contractor receives the termination notice after the date fixed for termination, then the effective date of termination means the date the contractor receives the notice.

"Electronic commerce" means electronic techniques for accomplishing business transactions including electronic mail or messaging, World Wide Web technology, electronic bulletin boards, purchase cards, electronic funds transfer, and electronic data interchange.

"Electronic Funds Transfer" (EFT) means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an

account. The term includes Automated Clearing House transfers, Fedwire transfers, and transfers made at automatic teller machines and point-of-sale terminals. For purposes of compliance with 31 U.S.C.3332 and implementing regulations at 31 CFR part 208, the term "electronic funds transfer" includes a Governmentwide commercial purchase card transaction.

"Emergency" means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States (42 U.S.C. 5122).

"End product" means supplies delivered under a line item of a NAFI contract, except for use in clauses BI.051, BI.052, and BI.053.

"Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.

"Executive agency" means an executive department, a military department, or any independent establishment within the meaning of 5 U.S.C.101, 102, and 104(1), respectively, and any wholly owned Government corporation within the meaning of 31 U.S.C.9101.

"Federal agency" means any executive agency or any independent establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, the Architect of the Capitol, and any activities under the Architect's direction).

"Federally-controlled information system" means an information system (44 U.S.C. 3502(8) used or operated by a Federal agency, or a contractor or other organization on behalf of the agency (44 U.S.C. 3544(a)(1)(A)).

"F.o.b." means free on board. This term is used in conjunction with a physical point to determine-

(1) The responsibility and basis for payment of freight charges; and

(2) Unless otherwise agreed, the point where title for goods passes to the buyer or consignee.

"F.o.b. destination" means free on board at destination; i.e., the seller or consignor delivers the goods on seller's or consignor's conveyance at destination. Unless the contract provides otherwise, the seller or consignor is responsible for the cost of shipping and risk of loss.

"F.o.b. origin" means free on board at origin; i.e., the seller or consignor places the goods on the conveyance. Unless the contract provides otherwise, the buyer or consignee is responsible for the cost of shipping and risk of loss.

"Freight" means supplies, goods, and transportable property.

"Head of the agency" (also called "agency head"), including any deputy or assistant chief official of the agency; and the term "authorized representative" means any person, persons, or board (other than the Contracting Officer) authorized to act for the head of the agency or Secretary.

"Head of the contracting activity" means the official who has overall responsibility for managing the contracting activity.

"In writing", "writing," or "written" means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

"Information security" means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide-

1) Integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

(2) Confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

(3) Availability, which means ensuring timely and reliable access to, and use of, information.

"Information technology" means any equipment, or interconnected system(s) or subsystem(s) of equipment, that is used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency.

(1) For purposes of this definition, equipment is used by an agency if the equipment is used by the agency directly or is used by a contractor under a contract with the agency that requires-

(i) Its use; or

(ii) To a significant extent, its use in the performance of a service or the furnishing of a product.

(2) The term "information technology" includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources.

(3) The term "information technology" does not include any equipment that-

(i) Is acquired by a contractor incidental to a contract; or

(ii) Contains imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment, such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are not information technology.

"Inherently governmental/NAFI function" means, as a matter of policy, a function that is so intimately related to the public interest as to mandate performance by Government/NAFI employees. This definition is a policy determination, not a legal determination. An inherently governmental or NAFI function includes activities that require either the exercise of discretion in applying Government/NAFI authority, or the making of value judgments in making decisions for the Government/NAFI. Governmental/NAFI functions normally fall into two categories: the act of governing, i.e., the discretionary exercise of Government/NAFI authority, and monetary transactions and entitlements.

(1) An inherently governmental/NAFI function involves, among other things, the interpretation and execution of the laws of the United States so as to-

(i) Bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(ii) Determine, protect, and advance United States economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(iii) Significantly affect the life, liberty, or property of private persons;

(iv) Commission, appoint, direct, or control officers or employees of the United States; or

(v) Exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of Federal funds.

(2) Inherently governmental/NAFI functions do not normally include gathering information for or providing advice, opinions, recommendations, or ideas to Government/NAFI officials. They also do not include functions that are primarily ministerial and internal in nature, such as building security, mail operations, operation of cafeterias, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management operations, or other routine electrical or mechanical services.

"Inspection" means examining and testing supplies or services (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether they conform to contract requirements.

"Insurance" means a contract that provides that for a stipulated consideration, one party undertakes to indemnify another against loss, damage, or liability arising from an unknown or contingent event.

"Invoice" means a contractor's bill or written request for payment under the contract for supplies delivered or services performed (see also "proper invoice").

"Latent defect" means a defect that exists at the time of acceptance but cannot be discovered by a reasonable inspection.

"Line item" means the basic structural element in a procurement instrument that describes and organizes the required product or service for pricing, delivery, inspection, acceptance, invoicing, and payment. The use of the term "line item" includes "subline item," as applicable.

"Line item number" means either a numeric or alphanumeric format to identify a line item.

"Market research" means collecting and analyzing information about capabilities within the market to satisfy agency needs.

"May" denotes the permissive. However, the words "no person may..." mean that no person is required, authorized, or permitted to do the act described.

"Must" (see "shall").

"Nondevelopmental item" means-

(1) Any previously developed item of supply used exclusively for governmental/NAFI purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(2) Any item described in paragraph (1) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

(3) Any item of supply being produced that does not meet the requirements of paragraphs (1) or (2) solely because the item is not yet in use.

"Offer" means a response to a solicitation that, if accepted, would bind the offeror to perform the resultant contract. Responses to invitations for bids (sealed bidding) are offers called "bids" or "sealed bids"; responses to requests for proposals (negotiation) are offers called "proposals"; however, responses to requests for quotations (simplified acquisition) are "quotations," not offers, unless defined otherwise herein.

"Offeror" means offeror or bidder.

"Option" means a unilateral right in a contract by which, for a specified time, the NAFI may elect to purchase additional supplies or services called for by the contract, or may elect to extend the term of the contract.

"Outlying areas" means-

(1) Commonwealths

(i) Puerto Rico.

(ii) The Northern Mariana Islands;

(2) Territories.

(i) American Samoa.

(ii) Guam.

(iii) U.S. Virgin Islands; and

(3) Minor outlying islands.

(i) Baker Island.

(ii) Howland Island.

(iii) Jarvis Island.

(iv) Johnston Atoll.

(v) Kingman Reef.

(vi) Midway Islands.

(vii) Navassa Island.

(viii) Palmyra Atoll.

(ix) Wake Atoll.

"Overtime" means time worked by a contractor's employee in excess of the employee's normal workweek.

"Partial termination" means the termination of a part, but not all, of the work that has not been completed and accepted under a contract.

"Past performance" means an Offeror's or contractor's performance on active and physically completed contracts

"Personal property" means property of any kind or interest in it except real property, records of the Federal Government, and naval vessels of the following categories:

(1) Battleships;

(2) Cruisers;

(3) Aircraft carriers;

(4) Destroyers; and

(5) Submarines.

"Pricing" means the process of establishing a reasonable amount or amounts to be paid for supplies or services.

"Principal" 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).

"Procurement" (see "acquisition").

"Procuring activity" means a component of a NAFI having a significant acquisition function and designated as such by the head of the agency. Unless agency regulations specify otherwise, the term "procuring activity" is synonymous with "contracting activity."

"Products" has the same meaning as "supplies."

"Proper invoice" means an invoice that meets the minimum standards specified in clause BI.010.

"Purchase order", when issued by the NAFI, means an offer by the NAFI to buy supplies or services, including construction and research and development, upon specified terms and conditions, using simplified acquisition procedures.

"Receiving report" means written evidence that indicates NAFI acceptance of supplies delivered or services performed

"Registered in the System for Award Management" (SAM) means that-

(1) The Contractor has entered all mandatory information, including the unique entity identifier and the Electronic Funds Transfer indicator (if applicable), the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14), into SAM;

(2) The Contractor has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in SAM;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The contractor will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record Active.

"Shall" denotes the imperative.

"Shipment" means freight transported or to be transported.

"Should" means an expected course of action or policy that is to be followed unless inappropriate for a particular circumstance.

"Signature" or "signed" means the discrete, verifiable symbol of an individual that, when affixed to a writing with the knowledge and consent of the individual, indicates a present intention to authenticate the writing. This includes electronic symbols.

"Solicitation" means any request to submit offers or quotations to the NAFI. Solicitations under sealed bid procedures are called "invitations for bids." Solicitations under negotiated procedures are called "requests for proposals." Solicitations under simplified acquisition procedures may require submission of either a quotation or an offer.

"Solicitation provision" or "provision" means a term or condition used only in solicitations and applying only before contract award.

"Supplies" means all property except land or interest in land. It includes (but is not limited to) public works, buildings, and facilities; ships, floating equipment, and vessels of every character, type, and description, together with parts and accessories; aircraft and aircraft parts, accessories, and equipment; machine tools; and the alteration or installation of any of the foregoing.

"System for Award Management" (SAM) means the primary Government repository for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes.

"Task order" means an order for services placed against an established contract or with Government sources.

"Taxpayer Identification Number" (TIN) means the number required by the IRS to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

"Technical data" means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. The term includes recorded information of a scientific or technical nature that is included in computer databases (see 41 U.S.C. 116).

"Terminated portion of the contract" means the portion of a contract that the contractor is not to perform following a partial termination. For construction contracts that have been completely terminated for convenience, it means the entire contract, notwithstanding the completion of, and payment for, individual items of work before termination.

"Termination for convenience" means the exercise of the NAFI's right to terminate performance of work completely or partially under a contract when it is in the NAFI's interest.

"Termination for default" means the exercise of the NAFI's right to terminate a contract completely or partially because of the contractor's actual or anticipated failure to perform its contractual obligations.

"Unique entity identifier" means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.

"Warranty" means a promise or affirmation given by a contractor to the NAFI regarding the nature, usefulness, or condition of the supplies or performance of services furnished under the contract.

(End of clause)

I.2 NONAPPROPRIATED FUND INSTRUMENTALITY (NOV 2004) BI.002

I.3 PROTECTING THE NAFI'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED OR PROPOSED FOR DEBARMENT (MAR 2020) BI.004

I.4 COMMENCEMENT, PROSECUTION AND COMPLETION OF WORK (NOV 2004) BI.006

I.5 INVOICES (MAR 2020) BI.010

(a) An invoice is a written request for payment under the contract for supplies delivered or for services rendered. In order to be proper, an invoice must include as applicable the following:

(1) Name and address of the contractor.

(2) Invoice date.

(3) Contract number or other authorization for supplies delivered, services performed (including order number and contract line item number).

(4) Description, quantity, unit of measure, unit price and extended price of supplies delivered or services performed.

(5) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government/NAFI bills of lading.

(6) Name and address of contractor official to whom payment is to be sent (must be the same as that on the contract or on a proper notice of assignment).

(7) Name (where applicable), title, phone number, mailing address of person to be notified in event of defective invoice.

(8) Any other information or documentation required by the contract (such as evidence of shipment). Invoices shall be prepared and submitted in duplicate (one copy shall be marked "original") unless otherwise specified.

(b) For purposes of determining if interest begins to accrue under the Prompt Payment Act (Public Law 97-177, as amended).

(1) A proper invoice will be deemed to have been received when it is received by the office designated in the contract for receipt of invoices and acceptance of the supplies delivered or services rendered has occurred;

(2) Payment shall be considered made on the date on which check for such payment is dated;

(3) When the due date falls on a Saturday, Sunday, or legal holiday when Government/NAFI facilities and offices are closed, may make payment on the following working day without incurring a late payment interest penalty.

(4) Payment terms (e.g., "net 20") offered by the contractor will not be deemed a "required payment date"; and

(5) The following periods of time will not be included:

(i) after receipt of an improper invoice and prior to notice of any defect or impropriety, but not to exceed 7 days (3 days on contracts for meat food products, and 5 days on contacts for perishable agricultural commodities, dairy products, edible fats or oils and food products prepared from edible fats or oils); and

(ii) between the date of a notice of any defect or impropriety and the date a proper invoice is received. When the notice is in writing, it shall be considered made on the date shown on the notice.

(6) If the NAFI makes payment by Electronic Funds Transfer (EFT) (see applicable contract clause). In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purposes of computing the discount earned, payment shall be considered to have been made on the date, which appears on the payment check, or the specified payment date if an electronic funds transfer payment is made.

(7) Discounts. When a discount for prompt payment is taken, the designated payment office will make payment to the contractor as close as possible to, but not later than, the end of the discount period. The discount period is specified by the contractor and is calculated from the date of the contractor's proper invoice. If the contractor has not placed a date on the invoice, the due date is calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. When the discount date falls on a Saturday, Sunday, or legal holiday when NAFI facilities and offices are closed, the designated payment office may make payment on the following working day and take a discount. Payment terms are specified in the clause at BI.070, Discounts for Prompt Payment.

(End of clause)

I.6 EXAMINATION OF RECORDS (MAR 2020) BI.011

(a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) The Contractor agrees that the Contracting Officer or the Contracting Officer's duly authorized representative shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder and to interview any current employee regarding such transactions.

(c) The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a) and (b) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract.

(b) The Contractor agrees to include the clause in all subcontracts.

(End of clause)

I.7 INSURANCE-WORK ON A GOVERNMENT INSTALLATION AND/OR OTHER NAFI LOCATIONS (MAR 2020) BI.012

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance period of this contract at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract, in no event shall the amount be lesser than the minimum requirements established by applicable state and local regulations and laws.

(b) Before commencing work under this contract, the Contractor shall certify to the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the NAFI's interest shall not

be effective (1) for such period as the laws of the States in which the contract is to be performed prescribed at (2) until 30 days after the insurer of the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of the clause, including this paragraph (c), in subcontracts under the contract that requires a work on a Government installation and/or other NAFI location and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. At least five days before entry of each such subcontractor's personnel on the Government installation, the Contractor shall furnish (or ensure that there has been furnished) to the Contracting Officer a current certificate of insurance meeting the requirements of paragraph (b) above, for each subcontractor.

(End of clause)

I.8 ORDER OF PRECEDENCE (NOV 2004) BI.013

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

(a) The Schedule (excluding the specifications);

(b) Representations and other instructions;

(c) Contract clauses;

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

(e) The specifications.

(End of clause)

I.9 ORDERING (NOV 2004) BI.016

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the NAFI deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of clause)

I.10 INDEFINITE QUANTITY (NOV 2004) BI.020

(a) This is an indefinite-quantity contract for the supplies or services specified and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the NAFI, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The NAFI shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The NAFI may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and NAFI's rights and obligations with respect to that order to the same extent as if the order were completed during the

contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after the final period of performance of each task order issued against the IDIQ.

(End of clause)

I.11 OPTION TO EXTEND SERVICES (NOV 2004) BI.021

I.12 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2020) BI.022

(1) Unless notice of intent to not extend or renew is provided by the NAFI, the Contractor may extend the term of this contract up to five (5) additional one-year options; provided, that the NAFI shall give the Contractor a preliminary written notice of its intent not to extend at least 60 days before the contract expires.

(2) The extended contract shall be considered to include this option clause.

(3) The total duration of this contract, including the exercise of any options under this clause, shall not exceed ten (10) years and six (6) months. (End of clause)

(End of clause)

I.13 NOTICE TO THE NAFI OF LABOR DISPUTES (NOV 2004) BI.023

I.14 CONTRACT WORK HOURS AND SAFETY STANDARDS-OVERTIME COMPENSATION (MAR 2020) BI.024

I.15 CONSTRUCTION WAGE RATE REQUIREMENTS (MAY 2014) BI.025

(a) Definition. "Site of the work".

(1) Means.

(i) The primary site of the work. The physical place or places where the construction called for in the contract will remain when work on it is completed; and

(ii) The secondary site of the work, if any. Any other site where a significant portion of the building or work is constructed, provided that such site is.

(A) Located in the United States; and

(B) Established specifically for the performance of the contract or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided.

(i) They are dedicated exclusively, or nearly so, to performance of the contract or project; and

(ii) They are adjacent or virtually adjacent to the "primary site of the work" as defined in paragraph (a)(1)(i), or the "secondary site of the work" as defined in paragraph (a)(1)(ii) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work" even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

(b)(1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed

at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Construction Wage Rate Requirements statute on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Construction Wage Rate Requirements (Davis-Bacon Act) poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

(c)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination

within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to paragraphs (c)(2) and (c)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(d) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(e) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Construction Wage Rate Requirements statute have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(End of clause)

I.16 WITHHOLDING OF FUNDS (MAY 2014) BI.026

I.17 PAYROLLS AND BASIC RECORDS (MAY 2014) BI.027

I.18 APPRENTICES AND TRAINEES (DEC 2010) BI.028

I.19 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (NOV 2004) BI.029

I.20 SUBCONTRACTS (LABOR STANDARDS) (MAY 2014) BI.030

I.21 CONTRACT TERMINATION-DEBARMENT (MAY 2014) BI.031

I.22 COMPLIANCE WITH CONSTRUCTION WAGE RATE REQUIREMENTS AND RELATED REGULATIONS (MAY 2014) BI.032

I.23 DISPUTES CONCERNING LABOR STANDARDS (NOV 2004) BI.033

I.24 CERTIFICATION OF ELIGIBILITY (NOV 2004) BI.034

I.25 LABOR STANDARDS FOR CONSTRUCTION WORK-FACILITIES CONTRACTS (DEC 2017) BI.035

I.26 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (MAR 2020) BI.040

I.27 SERVICE CONTRACT LABOR STANDARDS (MAY 2014) BI.041

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

"Contractor," when this clause is used in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

"Service employee" means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) *Applicability.* This contract is subject to the following provisions and to all other applicable provisions of 41 U.S.C. chapter 67, Service Contract Labor Standards, and regulations of the Secretary of Labor (29 CFR Part 4). This

clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 6702, as interpreted in Subpart C of 29 CFR Part 4.

(c) *Compensation.*

(1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request For Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices, which rank various job classifications by pay grade pursuant to point schemes or other job factors, may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this paragraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the

classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Service Contract Labor Standards statute and this contract.

(vi) Upon discovery of failure to comply with paragraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustment of compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) *Obligation to furnish fringe benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under paragraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) *Minimum wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) *Successor contracts.* If this contract succeeds a contract subject to the Service Contract Labor Standards statute under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Administrative Review Board, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) *Notification to employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of 41 U.S.C. 6703 and of this contract.

(h) *Safe and sanitary working conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided

by or under the control or supervision of the Contractor or subcontractor, which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) *Records.*

(1) The Contractor and each subcontractor performing work subject to the Service Contract Labor Standards statute shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Service Contract Labor Standards statute.

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees, which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) *Pay periods.* The Contractor shall unconditionally pay to each employee subject to the Service Contract Labor Standards statute all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this statute may not be of any duration longer than semi-monthly.

(k) *Withholding of payments and termination of contract.* The Contracting Officer shall withhold or cause to be withheld from the NAFI Prime Contractor under this or any other NAFI contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Service Contract Labor Standards statute all or part of the wages or fringe benefits due under the Service Contract Labor Standards statute, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the NAFI may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) *Subcontracts.* The Contractor agrees to insert this clause in all subcontracts subject to the Service Contract Labor Standards statute.

(m) *Collective bargaining agreements applicable to service employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the NAFI Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the NAFI Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) *Seniority list.* Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) *Rulings and interpretations.* Rulings and interpretations of the Service Contract Labor Standards statute are contained in Regulations, 29 CFR Part 4.

(p) *Contractor's certification.*

(1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded NAFI contracts by virtue of the sanctions imposed under 41 U.S.C. 6706.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government/NAFI contract under 41 U.S.C. 6706.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) *Variations, tolerances, and exemptions involving employment.* Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to 41 U.S.C. 6707 prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of NAFI business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by 41 U.S.C. 6703(1) without diminishing any fringe benefits or cash payments in lieu thereof required under 41 U.S.C. 6703(2), in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, persons with disabilities, and disabled clients of work centers under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the statute for the employment of apprentices, student-learners, persons with disabilities, or disabled clients of work centers not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two statutes, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR parts 525 and 528.

(r) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Office of Apprenticeship Training, Employer, and Labor Services (OATELS), U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) *Tips.* An employee engaged in an occupation in which the employee customarily and regularly receives more than $30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by 41 U.S.C. 6703(1), in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. However, the amount of credit shall not exceed $1.34 per hour beginning January 1, 1981. To use this provision.

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Labor Standards minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of 41 U.S.C. 6707(c).

(t) *Disputes concerning labor standards.* The U.S. Department of Labor has set forth in 29 CFR parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of clause)

I.28 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDS-PRICE ADJUSTMENT FOR MULTIPLE YEAR AND OPTION CONTRACTS (MAY 2014) BI.042

I.29 EQUAL OPPORTUNITY FOR VETERANS (MAR 2020) BI.045

(a) Definitions. As used in this clause-

"Active duty wartime or campaign badge veteran" means a veteran who served on active duty in the U.S. military, ground, naval, or air service, during a war or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense.

"Armed Forces service medal veteran" means any veteran who, while serving on active duty in the U.S. military, ground, naval, or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209).

"Disabled veteran" means-

(1) A veteran of the U.S. military, ground, naval, or air service, who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or

(2) A person who was discharged or released from active duty because of a service-connected disability.

"Protected veteran" means a veteran who is protected under the non-discrimination and affirmative action provisions of 38 U.S.C. 4212; specifically, a veteran who may be classified as a "disabled veteran," "recently separated veteran," "active duty wartime or campaign badge veteran," or an "Armed Forces service medal veteran," as defined by this section.

"Qualified disabled veteran" means a disabled veteran who has the ability to perform the essential functions of the employment positions with or without reasonable accommodation.

"Recently separated veteran" means any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service.

(b) Equal opportunity clause. **THE CONTRACTOR AND SUBCONTRACTOR SHALL ABIDE BY THE REQUIREMENTS OF THE EQUAL OPPORTUNITY CLAUSE AT 41 CFR 60-300.5(A), AS OF MARCH 24, 2014. THIS CLAUSE PROHIBITS DISCRIMINATION AGAINST QUALIFIED PROTECTED VETERANS, AND REQUIRES AFFIRMATIVE ACTION BY THE CONTRACTOR TO EMPLOY AND ADVANCE IN EMPLOYMENT QUALIFIED PROTECTED VETERANS**.

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

(End of clause)

I.30 WASTE REDUCTION (MAR 2020) BI.047

(a) Definitions. As used in this clause-

"Recycling" means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

"Waste prevention" means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

"Waste reduction" means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of section 3(e) of Executive Order 13423, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.) and implementing regulations (40 CFR part 247).

(End of clause)

I.31 MAINTENANCE, SERVICE, REPAIR, OR DISPOSAL OF REFRIGERATION EQUIPMENT AND AIR CONDITIONERS (MAR 2020) BI.048

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

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

"High global warming potential hydrofluorocarbons" means any hydrofluorocarbons in a particular end use for which EPA's Significant New Alternatives Policy (SNAP) program has identified other acceptable alternatives that

have lower global warming potential. The SNAP list of alternatives is found at 40 CFR Part 82 subpart G with supplemental tables of alternatives available at (http://www.epa.gov/snap/).

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

(b) The Contractor shall comply with the applicable requirements of Sections608 and 609 of the Clean Air Act (42 U.S.C.7671g and 7 671h) as each or both apply to this contract.

(c) Unless otherwise specified in the contract, the Contractor shall reduce the use, release, or emissions of high global warming potential hydrofluorocarbons under this contract by-

(1) Transitioning over time to the use of another acceptable alternative in lieu of high global warming potential hydrofluorocarbons in a particular end use for which EPA's SNAP program has identified other acceptable alternatives that have lower global warming potential;

(2) Preventing and repairing refrigerant leaks through service and maintenance during contract performance;

(3) Implementing recovery, recycling, and responsible disposal programs that avoid release or emissions during equipment service and as the equipment reaches the end of its useful life; and

(4) Using reclaimed hydrofluorocarbons, where feasible.

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

(End of clause)

I.32 PRIVACY ACT NOTIFICATION (NOV 2004) BI.049

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violations of the Act may involve the imposition of criminal penalties.

(End of clause)

I.33 PRIVACY ACT (NOV 2004) BI.050

(a) The Contractor agrees to-

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies-

(i) The systems of records; and

(ii) The design, development, or operation work that the contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.

(c)(1) "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) "Record," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) "System of records on individuals," as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(End of clause)

I.34 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (DEC 2010) BI.055

I.35 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2010) BI.057

I.36 PATENT INDEMNITY (DEC 2010) BI.058

I.37 PATENT INDEMNITY-CONSTRUCTION CONTRACTS (DEC 2010) BI.059

I.38 PERFORMANCE AND ~~PAYMENT~~ BONDS-CONSTRUCTION (MAR 2020) BI.064

(a) Definitions. As used in this clause-

"Original contract price" means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) Amount of required bonds.

(1) Unless the resulting contract price is $150,000 or less, the successful offeror shall furnish performance and payment bonds within 10 days after award of contract and before receiving a Notice to Proceed with the work or being allowed to start work.

(2) The Bonds shall include a statement that states that **"The term United States of America, as set forth in this bond form shall mean the United States Nonappropriated Fund Instrumentality (herein after referred to as the CSDV Supplemental Mission NAFI), which is a party to this contract."**

(3) The penal amount of the bond should not exceed the surety's underwriting limit; the bond will be acceptable only if

(i) the amount which exceeds the specified limit is coinsured or reinsured and

(ii) the amount of coinsurance or reinsurance does not exceed the underwriting limit of each coinsurer or reinsurer.

(4) The penal sums of such bonds shall be as follows:

(i) Performance Bonds (Standard Form 25). The penal amount of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(ii) Payment Bonds (Standard Form 25A). The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(iii) Additional bond protection.

(A) The NAFI may require additional performance and payment bond protection if the contract price is increased. The increase in protection generally will equal 100 percent of the increase in contract price.

(B) The NAFI may secure the additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) Furnishing executed bonds. If the contractor, upon acceptance of its bid or proposal by the fund within the period specified for acceptance, fails to execute all contractual documents or give performance and payment bonds as required by the contract within the time specified, the Contracting Officer may terminate the contract for default.

(d) Surety or other security for bonds. The bonds shall be in the form of a firm commitment, supported by corporate sureties whose names appear on the list contained in the Department of the Treasury Circular 570, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Individual sureties will not be acceptable under the requirements of this contract. Treasury Circular 570 is published in the Federal Register or may be obtained from the:

U.S. Department of Treasury
Financial Management Service
Surety Bond Branch
3700 East West Highway, Room 6F01
Hyattsville, MD 20782

Or via the internet at http://www.fms.treas.gov/c570/.

(e) Notice of subcontractor waiver of protection (40 U.S.C. 3133(c)). Any waiver of the right to sue on the payment bond is void unless it is in writing, signed by the person whose right is waived, and executed after such person has first furnished labor or material for use in the performance of the contract.

(End of clause)

I.39 TAXES (NOV 2004) BI.067

I.40 PAYMENTS (MAR 2020) BI.068

The NAFI will pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payments will be made on partial deliveries accepted by the NAFI if-

(a) The amount due on the deliveries warrants it, or

(b) The Contractor requests it and the amount due to the deliveries is at least $1,000 or 50 percent of the total contract price.

(End of clause)

I.41 DISCOUNTS FOR PROMPT PAYMENT (NOV 2004) BI.070

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a prompt payment discount in conjunction with the offer, offerors awarded contracts may include prompt payment discounts on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government NAFI facilities and

offices are closed and NAFI financial management activities are not expected to be conducted, payment may be made on the following business day.

(End of clause)

I.42 EXTRAS (NOV 2004) BI.073

I.43 PROMPT PAYMENT (MAR 2020) BI.074

I.44 MANDATORY INFORMATION FOR ELECTRONIC FUNDS TRANSFER (MAR 2020) BI.077

I.45 DISPUTES (NOV 2004) BI.079

(a) This contract is subject to the rules and regulations promulgated by the Secretary of Defense and Secretary of the Army for NAF contracting.

(b) The contract is not subject to the Contract Disputes Act of 1978 (41 U.S.C. 60I-613).

(c) All disputes arising under or relating to this contract shall be resolved under this clause.

(d) "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 forms, 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. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under this clause. The submission may be converted to a claim under this clause, by complying with the submission requirements of this clause. if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(e) (1) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the NAFI against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) For Contractor claims exceeding $100,000, 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 NAFI is liable.

(3) (i) If the Contractor is an individual, the certification shall be executed by that individual.

(ii) If the Contractor is not an individual, the certification shall be executed by-

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

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

(f) For contract claims of $100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over $100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(g) The Contracting Officer's decision shall be final unless the contractor appeals as provided in paragraph (h) of this clause.

(h) The Contracting Officer's decision on claims may be appealed by submitting a written appeal to the Armed Services Board of Contract Appeals within 90 days of receipt of the Contracting Officer's final decision. Decisions of the Armed Services Board of Contract Appeals are final and are not subject to further appeal.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

(End of clause)

I.46 DIFFERING SITE CONDITIONS (NOV 2004) BI.081

I.47 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (NOV 2005) BI.082

I.48 MATERIAL AND WORKMANSHIP (NOV 2004) BI.083

I.49 SUPERINTENDENCE BY THE CONTRACTOR (NOV 2004) BI.084

I.50 PERMITS AND RESPONSIBILITIES (NOV 2004) BI.085

I.51 OTHER CONTRACTS (NOV 2004) BI.086

I.52 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (NOV 2004) BI.087

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

(End of clause)

I.53 OPERATIONS AND STORAGE AREAS (NOV 2004) BI.088

(a) The Contractor shall confine all operations (including storage of materials) on NAFI or Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government and the NAFI, its officers, employees, and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices,) and utilities may be erected by the Contractor only with the approval of the Contracting Officer, and shall be built with labor and materials furnished by the Contractor without expense to the NAFI. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the contractor at the contractor's expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

(End of clause)

I.54 USE AND POSSESSION PRIOR TO COMPLETION (NOV 2004) BI.089

I.55 CLEANING UP (NOV 2004) BI.090

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the NAFI or the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

(End of clause)

I.56 ACCIDENT PREVENTION, FIRE PROTECTION AND SANITATION (NOV 2005) BI.091

If this contract is performed in whole or in part on premises owned or under the control of the United States Government and/or the NAFI, the Contractor shall conform to all safety regulations and requirements concerning such premises in effect at any time during the performance of the contract and take all necessary steps and precautions to prevent accidents, implement fire protections and conduct sanitation.

(End of clause)

I.57 AVAILABILITY AND USE OF UTILITY SERVICES (MAR 2020) BI.092

(a) The Government/NAFI shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the Government/NAFI or, where the Government/NAFI, at reasonable rates determined by the Contracting Officer, produces the utility. 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, and all meters required to measure the amount of each utility used for the purpose of determining charges.

(c) Before final acceptance of the work by the Government/NAFI, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia, unless otherwise directed in writing by the contracting officer.

(d) Contractor and Contractor's employees will comply with the NAFI energy conservation programs. Contractor furnished equipment requiring utility hookup shall comply with the NAFI conservation policy, meet or exceed Energy Star and/or other applicable standards; contractor shall replace any non-compliant equipment with acceptable equipment at contractor's expense.

(End of clause)

I.58 SCHEDULES FOR CONSTRUCTION CONTRACTS (NOV 2004) BI.093

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work schedules for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take such steps necessary to improve its progress, including those that may be required by the Contracting Officer, without

additional cost to the NAFI. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of the construction plan, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of the contract.

(End of clause)

I.59 LAYOUT OF WORK (NOV 2004) BI.094

The Contractor shall layout its work from established base lines and benchmarks indicated on the drawings furnished by the NAFI, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to layout any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

(End of clause)

I.60 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (MAR 2020) BI.0950

I.61 PRECONSTRUCTION CONFERENCE (NOV 2004) BI.100

I.62 BANKRUPTCY (NOV 2004) BI.102

I.63 CHANGES (NOV 2004) -- ALTERNATE I (NOV 2004) BI.104

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Description of services to be performed.

(2) Time of performance (i.e., hours of the day, days of the week, etc.).

(3) Place of performance of the services.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

I.64 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (MAR 2020) BI.107

(a) Definitions. As used in this clause-

"Commercial item," has the meaning contained in the clause Definitions.

"Subcontract," includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items as components of items to be supplied under this contract.

(c)(i) Notwithstanding any other clause of this contract, the Contractor is not required to include any provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices, in a subcontract at any tier for commercial items or commercial components:

(3) BI.040 Equal Opportunity for Workers with Disabilities (29 U.S.C. 793);

(4) BI.141 Establishing Minimum Wages for Contractors under Executive Order 13658 (Nov 2014) (Applies when BI.025 Construction Wage Rate Requirements or BI.041 Service Contract Labor Standards are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia)).;

(5) BI.045 Equal Opportunity for Veterans (38 U.S.C.4212(a));

(6) BI.145 Establishing Paid Sick Leave for Federal Contractors Under Executive Order 13706 (E.O. 13706), if flow down is required in accordance with paragraph (h) of NAF clause BI.145;

(7) BI.150 Basic Safeguarding of Covered Contractor Information Systems, other than subcontracts for commercially available off-the-shelf items, if flow down is required in accordance with paragraph (c) of NAF clause BI.150;

(8) BI.151 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Section 889(a)(1)(A) of Pub. L. 115-232);

(9) BI.152 Privacy Training (5 U.S.C. 552a) if flow down is required in accordance with BI.152(f);

(10) BI.153 Combating Trafficking in Persons (22 U.S.C. chapter 78 and E.O. 13627);

(Applies to all solicitations and contracts).

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)

I.65 NAFI PROPERTY (NOV 2004) BI.109

(a) The Contractor shall sign a receipt for any property furnished by the NAFI and upon expiration of this contract shall return such property to the NAFI in the same condition as when received, except for fair wear and tear.

(b) Such property will be supplied to the Contractor in a condition suitable for the intended use and in a timely manner.

(c) If property is received in a less than functional state or in a time frame which would delay Contractor's performance, the Contractor shall, upon receipt of property, notify the Contracting Officer, detailing the facts, and as directed by the Contracting Officer and at NAFI expense, either repair, modify, return or otherwise dispose of the property. In the case of an untimely delivery by the NAFI, the Contracting Officer shall make a determination of the delay, if any, caused by the NAFI, the contracting officer shall make an equitable adjustment in accordance with paragraph (c).

(d) The Contracting Officer shall, upon written notification from the Contractor of any such discrepancies, make an equitable adjustment from such expenses incurred by the contractor.

(e) After completion of the contract, if any such property is lost, damaged or destroyed by the Contractor, the NAFI shall be paid the cost of repairs of damages or the fair market value of the property as determined by the Contracting Officer.

(f) Equitable adjustment. When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the NAFI. The right to any equitable adjustment shall be the Contractor's exclusive remedy. The NAFI shall not be liable for breach of contract for-

(1) Any delay in delivery of NAFI furnished property;

(2) Delivery of NAFI furnished property in a condition not suitable for its intended use;

(3) A decrease in or substitution of NAFI furnished property; or

(4) Failure to repair or replace NAFI property for which the NAFI is responsible.

(End of clause)

I.66 COMMERCIAL WARRANTY (NOV 2004) BI.111

I.67 WARRANTY OF CONSTRUCTION (NOV 2004) BI.112

I.68 LIMITATION OF LIABILITY-SERVICES (NOV 2004) BI.114

I.69 TERMINATION FOR CONVENIENCE (MAR 2020) BI.1180

(a) The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the NAFI, in accordance with AR 215-4. In the event of such termination, the Contractor shall immediately stop all terminated work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work on the terminated portion(s) of the contract.

(b) Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges that the Contractor can demonstrate to the satisfaction of the NAFI, using its standard record keeping system, have resulted from the termination. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(c) The Contractor shall, as directed by the Contracting Officer, transfer title and deliver to the NAFI-

(i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and

(ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the NAFI.

(d) The Contractor shall complete performance of the work not terminated.

(e) The Contractor shall take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the NAFI has or may acquire an interest.

(f) The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(End of clause)

I.70 NO-FAULT TERMINATION (NOV 2004) BI.119

This contract may be terminated in whole or in part by either party upon [60] days written notice to the other party.

(End of clause)

I.71 DEFAULT (FIXED PRICE SUPPLY AND SERVICE) (NOV 2004) BI.120

(a) (1) The NAFI may, subject to paragraphs (c) and (d) below, through written notice of default to the Contractor, terminate this contract for default in whole or in part if the Contractor fails to-

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) below), or

(iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(2) The NAFI's right to terminate this contract for default under subdivisions (i)(ii) and (i)(iii) above may be exercised if the Contractor does not cure such failure within 10 days (or as authorized in writing by Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the NAFI terminates this contract for default in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate supplies or services similar to those terminated, and the Contractor will be liable to the NAFI for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any time, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or the public enemy, (2) acts of the Government/NAFI in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtained from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the NAFI may require the Contractor to transfer title and deliver to the NAFI, as directed by the Contracting Officer, any

(1) Completed supplies, and

(2) Partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the NAFI has an interest.

(f) The NAFI shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes Clause. The NAFI may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the NAFI against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligation of the parties shall be the same as if the termination had been issued for the convenience of the NAFI.

(h) The rights and remedies of the NAFI in this clause are in addition to any other rights and remedies provided by law or under this contract.

I.72 CLAUSES INCORPORATED BY REFERENCE (DEC 2021) BI.121

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. In addition, the full text of the clauses may be accessed electronically at this address:
https://home.army.mil/imcom/index.php/about/organization/family-and-morale-recreation-and-welfare/naf-contracting

(End of clause)

I.73 DEFAULT (FIXED-PRICE CONSTRUCTION) (NOV 2004) BI.122

(a) If the Contractor refuses or fails to prosecute the work, or any separable part, with the diligence that will ensure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the NAFI may, by written notice to the Contractor, terminate the right to proceed with the work or the separable part of the work that has been delayed. In this event, the NAFI may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the NAFI resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the NAFI in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if:

(1) The delay in completing the work arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God or of the public enemy, (ii) acts of the NAFI and /or Government, in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the NAFI or with the government, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the contractor's right to proceed, it is determined that the contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination has been issued for convenience of the NAFI.

(d) The rights and remedies of the NAFI in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

I.74 CONVICT LABOR (NOV 2004) BI.123

I.75 ASSIGNMENT OF CLAIMS (NOV 2004) BI.124

I.76 NONWAIVER OF DEFAULTS (NOV 2004) BI.125

Any failure by the NAFI at any time, or from time to time, to enforce or require strict performance of any terms or conditions of this contract will not constitute waiver thereof and will not affect or impair such terms or conditions in any way or the NAFI's right at any time to avail itself or such remedies as it may have for any breach or breaches of such terms and conditions.

(End of clause)

I.77 CHANGES-CONSTRUCTION (NOV 2004) BI.126

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the general scope of this contract, including changes-

(1) In the specifications (including drawings and designs);

(2) In the method or manner of performance of the work;

(3) In the NAFI-furnished facilities, equipment, materials, services, or site; or

(4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances, and source of the order and (2) that the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the NAFI is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of proposal, unless this period is extended by the NAFI. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

(End of clause)

I.78 EMPLOYMENT REPORTS ON VETERANS (MAR 2020) BI.133

I.79 EMPLOYMENT ELIGIBILITY VERIFICATION (MAR 2020) BI.138

(a) Definitions. As used in this clause-

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

(1) Means any item of supply that is-

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

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

(iii) Offered to the NAFI, 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. Per 46 CFR 525.1 (c)(2), "bulk cargo" means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

"Employee assigned to the contract" means an employee who was hired after November 6, 1986 (after November 27, 2009 in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a contract if the employee-

(1) Normally performs support work, such as indirect or overhead functions; and

(2) Does not perform any substantial duties applicable to the contract.

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

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

"United States", as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(b) Enrollment and verification requirements.

(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall-

(i) Enroll. Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(ii) Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

(iii) Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of-

(i) All new employees.

(A) Enrolled 90 calendar days or more. The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(B) Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United

States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(ii) Employees assigned to the contract. For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(3) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2) respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) Option to verify employment eligibility of all employees. The Contractor may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within 180 calendar days of-

(i) Enrollment in the E-Verify program; or

(ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

(5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

(i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

(c) Web site. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: http://www.dhs.gov/E-Verify gov/E-Verify.

(d) Individuals previously verified. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee-

(1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;

(2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

(3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.

(e) Subcontracts. The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that-

(1) Is for-

(i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or

(ii) Construction;

(2) Has a value of more than $3,500; and

(3) Includes work performed in the United States.

(End of Clause)

I.80 BUY AMERICAN ACT - CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (MAR 2020) BI.140

(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 item;

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

(iii) Offered to the NAFI, 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 NAFI 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.

"Designated country" means any of the following countries:

(1) A World Trade Organization NAFI Procurement Agreement country (Armenia, Aruba, 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, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, or United Kingdom);

(2) A Free Trade Agreement country (Australia, Bahrain, Canada, 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) An unmanufactured construction material mined or produced in the United States;

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

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

(ii) The construction material is a COTS item.

"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.

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

"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.

"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 component test of the Buy American statute is waived for construction material that is a COTS item. 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 item or to the construction materials or components listed by the NAFI as follows:[Contracting Officer 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 NAFI determines that--

(i) The cost of domestic construction material would be unreasonable. 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 6 percent;

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

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

(c) *Request for determination of inapplicability of the Buy American Statute.* (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for NAFI 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 NAFI 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 NAFI 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 measur	Quantity	Price (dollars)
Item 1			
Foreign construction material			
Domestic construction material			
Item 2			
Foreign construction material			
Domestic construction material			

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

(Include other applicable supporting information.)

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

(End of Clause)

I.81 ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS (JAN 2022) BI.141

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

United States means the 50 states, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331, *et seq*.).

Worker -

(1) (i) Means any person engaged in performing work on, or in connection with, a contract covered by Executive Order 14026, and-

(A) Whose wages under such contract are governed by the Fair Labor Standards Act (29 U.S.C. chapter 8), the Service Contract Labor Standards statute (41 U.S.C. chapter 67), or the Wage Rate Requirements (Construction) statute (40 U.S.C. chapter 31, subchapter IV);

(B) Other than individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541; and

(C) Regardless of the contractual relationship alleged to exist between the individual and the employer.

(ii) Includes workers performing on, or in connection with, the contract whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c).

(iii) Also includes any person working on, or in connection with, the contract and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.

(2) (i) A worker performs on a contract if the worker directly performs the specific services called for by the contract; and

(ii) A worker performs *in connection* with a contract if the worker's work activities are necessary to the performance of a contract but are not the specific services called for by the contract.

(b) *Executive Order*. This contract is subject to Executive Order (E.O.) 14026 (herein referred to as the Order), the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Order, and the requirements set forth herein.

(c) *Previous Orders*. E.O. 13658 established minimum wages for certain workers at $10.10 per hour. The E.O. 13658 rate has increased each year since 2015, rising to $11.25 on January 1, 2022. As of January 30, 2022, E.O. 13658 is superseded by the Order to the extent that it is inconsistent with the Order. In the event that the Order rate is higher than that required under E.O. 13658, this clause requires the Order minimum wage rate to be paid.

(d) *Minimum Wage Rate*.

(1) The Contractor shall pay to workers, while performing in the United States, and performing on, or in connection with, this contract, a minimum hourly wage rate of $15.00 per hour beginning January 30, 2022.

(2) The Contractor shall adjust the minimum wage paid, if necessary, beginning January 1, 2023, and annually thereafter, to meet the applicable annual E.O. minimum wage. The Administrator of the Department of Labor's Wage and Hour Division (the Administrator) will publish annual determinations in the Federal Register no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on https://www.sam.gov (or any successor website), and a general notice on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, that will provide information on the E.O. minimum wage and how to obtain annual updates. The applicable published E.O. minimum wage is incorporated by reference into this contract.

(3) (i) The Contractor may request a price adjustment only after the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only for increased labor costs (including subcontractor labor costs) as a result of an increase in the annual E.O. minimum wage, and for associated labor costs (including those for subcontractors). Associated labor costs shall include increases or decreases that result from changes in social security and unemployment taxes and workers' compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.

(ii) Subcontractors may be entitled to adjustments due to the new minimum wage, pursuant to paragraph (d)(2). Contractors shall consider any subcontractor requests for such price adjustment.

(iii) The Contracting Officer will not adjust the contract price under this clause for any costs other than those identified in paragraph (d)(3)(i) of this clause, and will not provide duplicate price adjustments with any price adjustment under clauses implementing the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.

(4) The Contractor warrants that the prices in this contract do not include allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(5) A pay period under this clause may not be longer than semi-monthly, but may be shorter to comply with any applicable law or other requirement under this contract establishing a shorter pay period. Workers shall be paid no later than one pay period following the end of the regular pay period in which such wages were earned or accrued.

(6) The Contractor shall pay, unconditionally to each worker, all wages due free and clear without subsequent rebate or kickback. The Contractor may make deductions that reduce a worker's wages below the E.O. minimum wage rate only if done in accordance with 29 CFR 23.230, Deductions.

(7) The Contractor shall not discharge any part of its minimum wage obligation under this clause by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Labor Standards statute, the cash equivalent thereof.

(8) Nothing in this clause shall excuse the Contractor from compliance with any applicable Federal or State prevailing wage law or any applicable law or municipal ordinance or any applicable contract establishing a minimum wage higher than the E.O. 14026 minimum wage. However, wage increases under such other laws or municipal ordinances are not subject to price adjustment under this subpart.

(9) The Contractor shall pay the E.O. minimum wage rate whenever it is higher than any applicable collective bargaining agreement(s) wage rate.

(10) The Contractor shall follow the policies and procedures in 29 CFR 23.240(b) and 23.280 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than $30 a month in tips.

(e) (1) This clause applies to workers as defined in paragraph (a). As provided in that definition-

(i) Workers are covered regardless of the contractual relationship alleged to exist between the contractor or subcontractor and the worker;

(ii) Workers with disabilities whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) are covered; and

(iii) Workers who are registered in a bona fide apprenticeship program or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.

(2) This clause does not apply to-

(i) Fair Labor Standards Act (FLSA)-covered individuals performing in connection with contracts covered by the E.O., i.e. those individuals who perform duties necessary to the performance of the contract, but who are not directly engaged in performing the specific work called for by the contract, and who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such contracts;

(ii) Individuals exempted from the minimum wage requirements of the FLSA under 29 U.S.C. 213(a) and 214(a) and (b), unless otherwise covered by the Service Contract Labor Standards statute, or the Wage Rate Requirements (Construction) statute. These individuals include but are not limited to-

(A) Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(a) ;

(B) Students whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(b) ; and

(C) Those employed in a bona fide executive, administrative, or professional capacity (29 U.S.C. 213(a)(1) and 29 CFR part 541).

(f) *Notice*. The Contractor shall notify all workers performing work on, or in connection with, this contract of the applicable E.O. minimum wage rate under this clause. With respect to workers covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, the Contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Contractor shall post notice, utilizing the poster provided by the Administrator, which can be obtained at www.dol.gov/agencies/whd/government-contracts, in a prominent and accessible place at the worksite. Contractors that customarily post notices to workers electronically may post the notice electronically provided the electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

(g) *Payroll Records*.

(1) The Contractor shall make and maintain records, for three years after completion of the work, containing the following information for each worker:

(i) Name, address, and social security number;

(ii) The worker's occupation(s) or classification(s);

(iii) The rate or rates of wages paid;

(iv) The number of daily and weekly hours worked by each worker;

(v) Any deductions made; and

(vi) Total wages paid.

(2) The Contractor shall make records pursuant to paragraph (g)(1) of this clause available for inspection and transcription by authorized representatives of the Administrator. The Contractor shall also make such records available upon request of the Contracting Officer.

(3) The Contractor shall make a copy of the contract available, as applicable, for inspection or transcription by authorized representatives of the Administrator.

(4) Failure to comply with this paragraph (g) shall be a violation of 29 CFR 23.260 and this contract. Upon direction of the Administrator or upon the Contracting Officer's own action, payment shall be withheld until such time as the noncompliance is corrected.

(5) Nothing in this clause limits or otherwise modifies the Contractor's payroll and recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, or any other applicable law.

(h) *Access*. The Contractor shall permit authorized representatives of the Administrator to conduct investigations, including interviewing workers at the worksite during normal working hours.

(i) *Withholding*. The Contracting Officer, upon his or her own action or upon written request of the Administrator, will withhold funds or cause funds to be withheld, from the Contractor under this or any other Federal contract with the same Contractor, sufficient to pay workers the full amount of wages required by this clause.

(j) *Disputes*. Department of Labor has set forth in 29 CFR 23.510, Disputes concerning contractor compliance, the procedures for resolving disputes concerning a contractor's compliance with Department of Labor regulations at 29 CFR part 23. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. These disputes include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the Department of Labor, or the workers or their representatives.

(k) *Anti-retaliation*. The Contractor shall not discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to compliance with the E.O. or this clause, or has testified or is about to testify in any such proceeding.

(l) *Subcontractor compliance*. The Contractor is responsible for subcontractor compliance with the requirements of this clause and may be held liable for unpaid wages due subcontractor workers.

(m) *Subcontracts*. The Contractor shall include the substance of this clause, including this paragraph (m) in all subcontracts, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.

(End of clause)

I.82 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011) BI.142

(a) The Contractor shall comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24 and Federal Information Processing Standards Publication (FIPS PUB) Number 201.

(b) The Contractor shall account for all forms of Government-provided identification issued to the Contractor employees in connection with performance under this contract. The Contractor shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by the Government/NAFI:

(1) When no longer needed for contract performance.

(2) Upon completion of the Contractor employee's employment.

(3) Upon contract completion or termination.

(c) The Contracting Officer may delay final payment under a contract if the Contractor fails to comply with these requirements.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts when the subcontractor's employees are required to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system. It shall be the responsibility of the prime Contractor to return such identification to the issuing agency in accordance with the terms set forth in paragraph (b) of this section, unless otherwise approved in writing by the Contracting Officer.

(End of clause)

I.83 ESTABLISHING PAID SICK LEAVE FOR FEDERAL CONTRACTORS (DEC 2016) BI.145

(a) Executive Order 13706. This contract is subject to Executive Order 13706, the regulations issued by the Secretary of Labor in 29 CFR part 13 pursuant to the Executive Order, and the following provisions.

(b) Paid Sick Leave.

(1) The contractor shall permit each employee (as defined in 29 CFR 13.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship that may be alleged to exist between the contractor and employee, to earn not less than 1 hour of paid sick leave for every 30 hours worked. The contractor shall additionally allow accrual and use of paid sick leave as required by Executive Order 13706 and 29 CFR part 13. The contractor shall in particular comply with the accrual, use, and other requirements set forth in 29 CFR 13.5 and 13.6, which are incorporated by reference in this contract.

(2) The contractor shall provide paid sick leave to all employees when due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 13.24), rebate, or kickback on any account. The contractor shall provide pay and benefits for paid sick leave used no later than one pay period following the end of the regular pay period in which the paid sick leave was taken.

(3) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the requirements of Executive Order 13706, 29 CFR part 13, and this clause.

(c) Withholding. The contracting officer shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay employees the full amount owed to compensate for any violation of the requirements of Executive Order 13706, 29 CFR part 13, or this clause, including any pay and/or benefits denied or lost by reason of the violation; other actual monetary losses sustained as a direct result of the violation, and liquidated damages.

(d) Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to comply with Executive Order 13706, 29 CFR part 13, or this clause, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause

suspension of any further payment, advance, or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government/NAFI may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 13.52.

(e) The paid sick leave required by Executive Order 13706, 29 CFR part 13, and this clause is in addition to a contractor's obligations under the Service Contract Labor Standards and the Wage Rate Requirements (Construction) statutes, and a contractor may not receive credit toward its prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of Executive Order 13706 and 29 CFR part 13.

(f) Nothing in Executive Order 13706 or 29 CFR part 13 shall excuse noncompliance with or supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established under Executive Order 13706 and 29 CFR part 13.

(g) Recordkeeping.

(1) Any contractor performing work subject to Executive Order 13706 and 29 CFR part 13 must make and maintain, for no less than three (3) years from the completion of the work on the contract, records containing the information specified in paragraphs (i) through (xv) of this section for each employee and shall make them available for inspection, copying, and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

(i) Name, address, and Social Security number of each employee;

(ii) The employee's occupation(s) or classification(s);

(iii) The rate or rates of wages paid (including all pay and benefits provided);

(iv) The number of daily and weekly hours worked;

(v) Any deductions made;

(vi) The total wages paid (including all pay and benefits provided) each pay period;

(vii) A copy of notifications to employees of the amount of paid sick leave the employee has accrued, as required under 29 CFR 13.5(a)(2);

(viii) A copy of employees' requests to use paid sick leave, if in writing, or, if not in writing, any other records reflecting such employee requests;

(ix) Dates and amounts of paid sick leave taken by employees (unless a contractor's paid time off policy satisfies the requirements of Executive Order 13706 and 29 CFR part 13 as described in 13.5(f)(5), leave must be designated in records as paid sick leave pursuant to Executive Order 13706);

(x) A copy of any written responses to employees' requests to use paid sick leave, including explanations for any denials of such requests, as required under 29 CFR 13.5(d)(3);

(xi) Any records reflecting the certification and documentation a contractor may require an employee to provide under 29 CFR 13.5(e), including copies of any certification or documentation provided by an employee;

(xii) Any other records showing any tracking of or calculations related to an employee's accrual or use of paid sick leave;

(xiii) The relevant covered contract;

(xiv) The regular pay and benefits provided to an employee for each use of paid sick leave; and

(xv) Any financial payment made for unused paid sick leave upon a separation from employment intended, pursuant to 29 CFR 13.5(b)(5), to relieve a contractor from the obligation to reinstate such paid sick leave as otherwise required by 29 CFR 13.5(b)(4).

(2)(i) If a contractor wishes to distinguish between an employee's covered and non-covered work, the contractor must keep records or other proof reflecting such distinctions. Only if the contractor adequately segregates the employee's time will time spent on non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. Similarly, only if that contractor adequately segregates the employee's time may a contractor properly refuse an employee's request to use paid sick leave on the ground that the employee was scheduled to perform non-covered work during the time she asked to use paid sick leave.

(ii) If a contractor estimates covered hours worked by an employee who performs work in connection with covered contracts pursuant to 29 CFR 13.5(a)(i) or (iii), the contractor must keep records or other proof of the verifiable information on which such estimates are reasonably based. Only if the contractor relies on an estimate that is reasonable and based on verifiable information will an employee's time spent in connection with non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. If a contractor estimates the amount of time an employee spends performing in connection with covered contracts, the contractor must permit the employee to use her paid sick leave during any work time for the contractor.

(3) In the event a contractor is not obligated by the Service Contract Labor Standards, the Wage Rate Requirements (Construction) statute, or the Fair Labor Standards Act to keep records of an employee's hours worked, such as because the employee is exempt from the FLSA's minimum wage and overtime requirements, and the contractor chooses to use the assumption permitted by 29 CFR 13.5(a)(1)(iii), the contractor is excused from the requirement in paragraph (1)(d) of this section to keep records of the employee's number of daily and weekly hours worked.

(4)(i) Records relating to medical histories or domestic violence, sexual assault, or stalking, created for purposes of Executive Order 13706, whether of an employee or an employee's child, parent, spouse, domestic partner, or other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, shall be maintained as confidential records in separate files/records from the usual personnel files.

(ii) If the confidentiality requirements of the Genetic Information Nondiscrimination Act of 2008 (GINA), section 503 of the Rehabilitation Act of 1973, and/or the Americans with Disabilities Act (ADA) apply to records or documents created to comply with the recordkeeping requirements in this contract clause, the records and documents must also be maintained in compliance with the confidentiality requirements of the GINA, section 503 of the Rehabilitation Act of 1973, and/or ADA as described in 29 CFR 1635.9, 41 CFR 60-741.23(d), and 29 CFR 1630.14(c)(1), respectively.

(iii) The contractor shall not disclose any documentation used to verify the need to use 3 or more consecutive days of paid sick leave for the purposes listed in 29 CFR 13.5(c)(1)(iv) (as described in 29 CFR 13.5(e)(1)(ii)) and shall maintain confidentiality about any domestic abuse, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.

(5) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(6) Nothing in this contract clause limits or otherwise modifies the contractor's recordkeeping obligations, if any, under the Wage Rate Requirements (Construction) statute, the Service Contract Labor Standards statute, the Fair Labor Standards Act, the Family and Medical Leave Act, Executive Order 13658, their respective implementing regulations, or any other applicable law.

(h) The contractor (as defined in 29 CFR 13.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts.

(i) Certification of Eligibility.

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government/NAFI contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Labor Standards, section 3(a) of the Wage Rate Requirements (Construction) statute, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts currently maintained on the System for Award Management website, http://www.SAM.gov.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(j) Interference/Discrimination.

(1) A contractor may not in any manner interfere with an employee's accrual or use of paid sick leave as required by Executive Order 13706 or 29 CFR part 13. Interference includes, but is not limited to, miscalculating the amount of paid sick leave an employee has accrued, denying or unreasonably delaying a response to a proper request to use paid sick leave, discouraging an employee from using paid sick leave, reducing an employee's accrued paid sick leave by more than the amount of such leave used, transferring an employee to work on non-covered contracts to prevent the accrual or use of paid sick leave, disclosing confidential information contained in certification or other documentation provided to verify the need to use paid sick leave, or making the use of paid sick leave contingent on the employee's finding a replacement worker or the fulfillment of the contractor's operational needs.

(2) A contractor may not discharge or in any other manner discriminate against any employee for:

(i) Using, or attempting to use, paid sick leave as provided for under Executive Order 13706 and 29 CFR part 13;

(ii) Filing any complaint, initiating any proceeding, or otherwise asserting any right or claim under Executive Order 13706 and 29 CFR part 13;

(iii) Cooperating in any investigation or testifying in any proceeding under Executive Order 13706 and 29 CFR part 13; or

(iv) Informing any other person about his or her rights under Executive Order 13706 and 29 CFR part 13.

(k) Waiver. Employees cannot waive, nor may contractors induce employees to waive, their rights under Executive Order 13706, 29 CFR part 13, or this clause.

(l) Notice. The contractor must notify all employees performing work on or in connection with a covered contract of the paid sick leave requirements of Executive Order 13706, 29 CFR part 13, and this clause by posting a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by employees. Contractors that customarily post notices to employees electronically may post the notice electronically, provided such electronic posting is displayed prominently on any website that is maintained by the contractor, whether external or internal, and customarily used for notices to employees about terms and conditions of employment.

(End of clause)

I.84 DISCLOSURE OF INFORMATION (JUL 2017) BI.146

I.85 LIMITATIONS ON THE USE OR DISCLOSURE OF THIRD-PARTY CONTRACTOR REPORTED CYBER INCIDENT INFORMATION (MAR 2020) BI.147

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

"Compromise" means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred.

"Controlled technical information" means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B through F using the criteria set forth in DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

"Covered defense information" means unclassified controlled technical information or other information (as described in the Controlled Unclassified Information (CUI) Registry at http://www.archives.gov/cui/registry/category-list.html) (which includes, but is not limited to, personally identifiable information (PII) as defined in this contract) that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Government/NAFI wide policies, and is-

(1) Marked or otherwise identified in the contract, task order, or delivery order and provided to the contractor by or on behalf of DoD in support of the performance of the contract; or

(2) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract.

"Cyber incident" means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein.

"Information system" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

"Media" means physical devices or writing surfaces including, but is not limited to, magnetic tapes, optical disks, magnetic disks, large-scale integration memory chips, and printouts onto which covered defense information is recorded, stored, or printed within a covered contractor information system.

"Technical information" means technical data or computer software, where technical information include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software executable code and source code.

(b) *Restrictions*. The Contractor agrees that the following conditions apply to any information it receives or creates in the performance of this contract that is information obtained from a third-party's reporting of a cyber incident pursuant to clause BI.148, Safeguarding Covered Defense Information and Cyber Incident Reporting (or derived from such information obtained under that clause):

(1) The Contractor shall access and use the information only for the purpose of furnishing advice or technical assistance directly to the NAFI in support of the NAFI's activities related to clause BI-148, and shall not be used for any other purpose.

(2) The Contractor shall protect the information against unauthorized release or disclosure.

(3) The Contractor shall ensure that its employees are subject to use and non-disclosure obligations consistent with this clause prior to the employees being provided access to or use of the information.

(4) The third-party contractor that reported the cyber incident is a third-party beneficiary of the non-disclosure agreement between the NAFI and Contractor, as required by paragraph (b)(3) of this clause.

(5) A breach of these obligations or restrictions may subject the Contractor to-

(i) Criminal, civil, administrative, and contractual actions in law and equity for penalties, damages, and other appropriate remedies by the United States; and

(ii) Civil actions for damages and other appropriate remedies by the third party that reported the cyber incident, as a third party beneficiary of this clause.

(c) *Subcontracts*. The Contractor shall include this clause, including this paragraph (c), in subcontracts, or similar contractual instruments, for services that include support for the NAFI's activities related to safeguarding covered defense information and cyber incident reporting, including subcontracts for commercial items, without alteration, except to identify the parties.

(End of clause)

I.86 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (MAR 2020) BI.148

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

"Adequate security" means protective measures that are commensurate with the consequences and probability of loss, misuse, or unauthorized access to, or modification of information.

"Compromise" means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred.

"Contractor attributional/proprietary information" means information that identifies the contractor(s), whether directly or indirectly, by the grouping of information that can be traced back to the contractor(s) (e.g., program description, facility locations), personally identifiable information, as well as trade secrets, commercial or financial information, or other commercially sensitive information that is not customarily shared outside of the company.

"Controlled technical information" means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B through F using the criteria set forth in DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

"Covered contractor information system" means an unclassified information system that is owned, or operated by or for, a contractor and that processes, stores, or transmits covered defense information.

"Covered defense information" means unclassified controlled technical information or other information, as described in the Controlled Unclassified Information (CUI) Registry at http://www.archives.gov/cui/registry/category-list.html, (which includes, but is not limited to, personally identifiable information (PII) as defined in this contract) that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Government/NAFI wide policies, and is-

(1) Marked or otherwise identified in the contract, task order, or delivery order and provided to the contractor by or on behalf of the NAFI in support of the performance of the contract; or

(2) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract.

"Cyber incident" means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein.

"Forensic analysis" means the practice of gathering, retaining, and analyzing computer-related data for investigative purposes in a manner that maintains the integrity of the data.

"Information system" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

"Malicious software" means computer software or firmware intended to perform an unauthorized process that will have adverse impact on the confidentiality, integrity, or availability of an information system. This definition includes a virus, worm, Trojan horse, or other code-based entity that infects a host, as well as spyware and some forms of adware.

"Media" means physical devices or writing surfaces including, but is not limited to, magnetic tapes, optical disks, magnetic disks, large-scale integration memory chips, and printouts onto which covered defense information is recorded, stored, or printed within a covered contractor information system.

"Operationally critical support" means supplies or services designated by the Government/NAFI as critical for airlift, sealift, intermodal transportation services, or logistical support that is essential to the mobilization, deployment, or sustainment of the Armed Forces in a contingency operation.

"Rapidly report" means within 72 hours of discovery of any cyber incident.

"Technical information" means technical data or computer software where technical information include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software executable code and source code.

(b) *Adequate security*. The Contractor shall provide adequate security on all covered contractor information systems. To provide adequate security, the Contractor shall implement, at a minimum, the following information security protections:

(1) For covered contractor information systems that are part of an Information Technology (IT) service or system operated on behalf of the NAFI, the following security requirements apply:

(i) Cloud computing services shall be subject to the security requirements specified in the clause BI.149 Cloud Computing Services, of this contract.

(ii) Any other such IT service or system (i.e., other than cloud computing) shall be subject to the security requirements specified elsewhere in this contract.

(2) For covered contractor information systems that are not part of an IT service or system operated on behalf of the NAFI and therefore are not subject to the security requirement specified at paragraph (b)(1) of this clause, the following security requirements apply:

(i) Except as provided in paragraph (b)(2)(ii) of this clause, the covered contractor information system shall be subject to the security requirements in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations" (available via the internet at http://dx.doi.org/10.6028/NIST.SP.800-171) in effect at the time the solicitation is issued or as authorized by the Contracting Officer.

(ii)(A) The Contractor shall implement NIST SP 800-171, as soon as practical, but not later than December 31, 2017. For all contracts awarded prior to October 1, 2017, the Contractor shall notify the DoD Chief Information Officer (CIO), via email at osd.dibcsia@mail.mil, within 30 days of contract award, of any security requirements specified by NIST SP 800-171 not implemented at the time of contract award.

(B) The Contractor shall submit requests to vary from NIST SP 800-171 in writing to the Contracting Officer, for consideration by the DoD CIO. The Contractor need not implement any security requirement adjudicated by an authorized representative of the DoD CIO to be nonapplicable or to have an alternative, but equally effective, security measure that may be implemented in its place.

(C) If the DoD CIO has previously adjudicated the contractor's requests indicating that a requirement is not applicable or that an alternative security measure is equally effective, a copy of that approval shall be provided to the Contracting Officer when requesting its recognition under this contract.

(D) If the Contractor intends to use an external cloud service provider to store, process, or transmit any covered defense information in performance of this contract, the Contractor shall require and ensure that the cloud service provider meets security requirements equivalent to those established by the Government for the Federal Risk and Authorization Management Program (FedRAMP) Moderate baseline (https://www.fedramp.gov/resources/documents/) and that the cloud service provider complies with requirements in paragraphs (c) through (g) of this clause for cyber incident reporting, malicious software, media preservation and protection, access to additional information and equipment necessary for forensic analysis, and cyber incident damage assessment.

(3) Apply other information systems security measures when the Contractor reasonably determines that information systems security measures, in addition to those identified in paragraphs (b)(1) and (2) of this clause, may be required to provide adequate security in a dynamic environment or to accommodate special circumstances (e.g., medical devices) and any individual, isolated, or temporary deficiencies based on an assessed risk or vulnerability. These measures may be addressed in a system security plan.

(c) *Cyber incident reporting requirement*.

(1) When the Contractor discovers a cyber incident that affects a covered contractor information system or the covered defense information residing therein, or that affects the contractor's ability to perform the requirements of the contract that are designated as operationally critical support and identified in the contract, the Contractor shall-

(i) Conduct a review for evidence of compromise of covered defense information, including, but not limited to, identifying compromised computers, servers, specific data, and user accounts. This review shall also include analyzing covered contractor information system(s) that were part of the cyber incident, as well as other information systems on the Contractor's network(s), that may have been accessed as a result of the incident in order to identify compromised covered defense information, or that affect the Contractor's ability to provide operationally critical support; and

(ii) Rapidly report cyber incidents to DoD at http://dibnet.dod.mil.

(2) *Cyber incident report*. The cyber incident report shall be treated as information created by or for DoD and shall include, at a minimum, the required elements at http://dibnet.dod.mil.

(3) *Medium assurance certificate requirement*. In order to report cyber incidents in accordance with this clause, the Contractor or subcontractor shall have or acquire a DoD-approved medium assurance certificate to report cyber incidents. For information on obtaining a DoD-approved medium assurance certificate, see http://iase.disa.mil/pki/eca/Pages/index.aspx.

(d) *Malicious software*. When the Contractor or subcontractors discover and isolate malicious software in connection with a reported cyber incident, submit the malicious software to DoD Cyber Crime Center (DC3) in accordance with instructions provided by DC3 or the Contracting Officer. Do not send the malicious software to the Contracting Officer.

(e) *Media preservation and protection*. When a Contractor discovers a cyber incident has occurred, the Contractor shall preserve and protect images of all known affected information systems identified in paragraph (c)(1)(i) of this clause and all relevant monitoring/packet capture data for at least 90 days from the submission of the cyber incident report to allow DoD to request the media or decline interest.

(f) *Access to additional information or equipment necessary for forensic analysis*. Upon request by DoD, the Contractor shall provide DoD with access to additional information or equipment that is necessary to conduct a forensic analysis.

(g) *Cyber incident damage assessment activities*. If DoD elects to conduct a damage assessment, the Contracting Officer will request that the Contractor provide all of the damage assessment information gathered in accordance with paragraph (e) of this clause.

(h) *DoD safeguarding and use of contractor attributional/proprietary information*. The NAFI shall protect against the unauthorized use or release of information obtained from the contractor (or derived from information obtained from the contractor) under this clause that includes contractor attributional/proprietary information, including such information submitted in accordance with paragraph (c). To the maximum extent practicable, the Contractor shall identify and mark attributional/proprietary information. In making an authorized release of such information, the NAFI will implement appropriate procedures to minimize the contractor attributional/proprietary information that is included in such authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released.

(i) *Use and release of contractor attributional/proprietary information not created by or for DoD or the NAFI*. Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is not created by or for DoD or the NAFI is authorized to be released outside of DoD or the NAFI-

(1) To entities with missions that may be affected by such information;

(2) To entities that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(3) To Government/NAFI entities that conduct counterintelligence or law enforcement investigations;

(4) For national security purposes, including cyber situational awareness and defense purposes (including with Defense Industrial Base (DIB) participants in the program at 32 CFR part 236); or

(5) To a support services contractor ("recipient") that is directly supporting Government/NAFI activities under a contract that includes the clause at BI.147, Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

(j) *Use and release of contractor attributional/proprietary information created by or for DoD or the NAFI*. Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is created by or for DoD or the NAFI (including the information submitted pursuant to paragraph (c) of this clause) is authorized to be used and released outside of DoD or the NAFI for purposes and activities authorized by paragraph (i) of this clause, and for any other lawful NAFI purpose or activity, subject to all applicable statutory, regulatory, and policy based restrictions on the NAFIs use and release of such information.

(k) The Contractor shall conduct activities under this clause in accordance with applicable laws and regulations on the interception, monitoring, access, use, and disclosure of electronic communications and data.

(l) *Other safeguarding or reporting requirements*. The safeguarding and cyber incident reporting required by this clause in no way abrogates the Contractor's responsibility for other safeguarding or cyber incident reporting pertaining to its unclassified information systems as required by other applicable clauses of this contract, or as a result of other applicable U.S. Government statutory or regulatory requirements.

(m) *Subcontracts*. The Contractor shall-

(1) Include this clause, including this paragraph (m), in subcontracts, or similar contractual instruments, for operationally critical support, or for which subcontract performance will involve covered defense information, including subcontracts for commercial items, without alteration, except to identify the parties. The Contractor shall determine if the information required for subcontractor performance retains its identity as covered defense information and will require protection under this clause, and, if necessary, consult with the Contracting Officer; and

(2) Require subcontractors to-

(i) Notify the prime Contractor (or next higher-tier subcontractor) when submitting a request to vary from a NIST SP 800-171 security requirement to the Contracting Officer, in accordance with paragraph (b)(2)(ii)(B) of this clause; and

(ii) Provide the incident report number, automatically assigned by DoD, to the prime Contractor (or next higher-tier subcontractor) as soon as practicable, when reporting a cyber incident to DoD as required in paragraph (c) of this clause.

(End of clause)

I.87 <u>CLOUD COMPUTING SERVICES (MAR 2020) BI.149</u>

I.88 <u>BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUL 2019) BI.150</u>

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

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

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

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

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

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

(b) Safeguarding requirements and procedures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

I.89 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2020) BI.151

(a) Definitions. As used in this clause-

"Backhaul" means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

"Covered foreign country" means The People's Republic of China.

"Covered telecommunications equipment or services" means-

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

"Critical technology" means-

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

"Interconnection arrangements" means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

"Reasonable inquiry" means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

"Roaming" means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

"Substantial or essential component" means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(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. The Contractor is prohibited from providing to the Government 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, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in Pub. L. 115-232 (d)(2).

(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, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

(c) Exceptions. This clause does not prohibit contractors from providing-

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

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

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at https://dibnet.dod.mil. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at https://dibnet.dod.mil.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

(End of clause)

I.90 PRIVACY TRAINING (JAN 2020) BI.152

(a) *Definition*. As used in this clause, "personally identifiable information" means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual. *(See Office of Management and Budget (OMB) Circular A-130, Managing Federal Information as a Strategic Resource*).

(b) The Contractor shall ensure that initial privacy training, and annual privacy training thereafter, is completed by contractor employees who-

(1) Have access to a system of records;

(2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information on behalf of an agency; or

(3) Design, develop, maintain, or operate a system of records.

(c)(1) Privacy training shall address the key elements necessary for ensuring the safeguarding of personally identifiable information or a system of records. The training shall be role based, provide foundational as well as more advanced levels of training, and have measures in place to test the knowledge level of users. At a minimum, the privacy training shall cover-

(i) The provisions of the Privacy Act of 1974 (5 U.S.C. 552a), including penalties for violations of the Act;

(ii) The appropriate handling and safeguarding of personally identifiable information;

(iii) The authorized and official use of a system of records or any other personally identifiable information;

(iv) The restriction on the use of unauthorized equipment to create, collect, use, process, store, maintain, disseminate, disclose, dispose or otherwise access personally identifiable information;

(v) The prohibition against the unauthorized use of a system of records or unauthorized disclosure, access, handling, or use of personally identifiable information; and

(vi) The procedures to be followed in the event of a suspected or confirmed breach of a system of records or the unauthorized disclosure, access, handling, or use of personally identifiable information (see OMB guidance for Preparing for and Responding to a Breach of Personally Identifiable Information).

(2) Completion of an agency-developed or agency-conducted training course shall be deemed to satisfy these elements.

(d) The Contractor shall maintain and, upon request, provide documentation of completion of privacy training to the Contracting Officer.

(e) The Contractor shall not allow any employee access to a system of records, or permit any employee to create, collect, use, process, store, maintain, disseminate, disclose, dispose or otherwise handle personally identifiable information, or to design, develop, maintain, or operate a system of records unless the employee has completed privacy training, as required by this clause.

(f) The substance of this clause, including this paragraph (f), shall be included in all subcontracts under this contract, when subcontractor employees will-

(1) Have access to a system of records;

(2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or

(3) Design, develop, maintain, or operate a system of records.

(End of clause)

I.91 COMBATING TRAFFICKING IN PERSONS (MAR 2020) BI.153

(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" means-

(1) Any item of supply (including construction material) that is-

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

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

(iii) Offered to the Government/NAFI, 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/NAFI-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/NAFI 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/NAFI 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) The United States Government's policy prohibiting trafficking in persons, described in paragraph (b) of this clause; and

(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, 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 NAFI, 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 NAFI 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/NAFI 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/NAFI authorities.

(2) The requirement for full cooperation does not foreclose any Contractor rights arising in law 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 $500,000.

(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/NAFI, 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/NAFI'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 website 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 employees or potential employees 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-

(A) 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

(B) Has an estimated value that exceeds $500,000.

(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)

I.92 CONTINUATION OF ESSENTIAL CONTRACTOR SERVICES (MAR 2020) BI.154

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

(1) Essential contractor service means a service provided by a firm or individual under contract to DoD to support mission-essential functions, such as support of vital systems, associated support activities, including installation, garrison, and base support services; and similar services provided to foreign military sales customers under the Security Assistance Program. Services are essential if the effectiveness of defense systems or operations has the potential to be seriously impaired by the interruption of these services, as determined by the appropriate functional commander or civilian equivalent.

(2) Mission-essential functions means those organizational activities that must be performed under all circumstances to achieve DoD component missions or responsibilities, as determined by the appropriate functional commander or civilian equivalent. Failure to perform or sustain these functions would significantly affect DoD s ability to provide vital services or exercise authority, direction, and control.

(b) The NAFI has identified all or a portion of the contractor services performed under this contract as essential contractor services in support of mission essential functions. These services are listed in attachment [ ], Mission-Essential Contractor Services, dated [ ].

(c)(1) The Mission-Essential Contractor Services Plan submitted by the Contractor, is incorporated in this contract.

(2) The Contractor shall maintain and update its plan as necessary. The Contractor shall provide all plan updates to the Contracting Officer for approval.

(3) As directed by the Contracting Officer, the Contractor shall participate in training events, exercises, and drills associated with NAFI efforts to test the effectiveness of continuity of operations procedures and practices.

(d)(1) Notwithstanding any other clause of this contract, the contractor shall be responsible to perform those services identified as essential contractor services during crisis situations (as directed by the Contracting Officer), in accordance with its Mission-Essential Contractor Services Plan.

(2) In the event the Contractor anticipates not being able to perform any of the essential contractor services identified in accordance with paragraph (b) of this section during a crisis situation, the Contractor shall notify the Contracting Officer or other designated representative as expeditiously as possible and use its best efforts to cooperate with the NAFI in the NAFI's efforts to maintain the continuity of operations.

(e) The NAFI reserves the right in such crisis situations to use Federal employees, military personnel or contract support from other contractors, or to enter into new contracts for essential contractor services.

(f) Changes. The Contractor shall segregate and separately identify all costs incurred in continuing performance of essential services in a crisis situation. The Contractor shall notify the Contracting Officer of an increase or decrease in costs within ninety days after continued performance has been directed by the Contracting Officer, or within any additional period that the Contracting Officer approves in writing, but not later than the date of final payment under the contract. The Contractor s notice shall include the Contractor s proposal for an equitable adjustment and any data supporting the increase or decrease in the form prescribed by the Contracting Officer. The parties shall negotiate an equitable price adjustment to the contract price, delivery schedule, or both as soon as is practicable after receipt of the Contractor's proposal.

(g) The Contractor shall include the substance of this clause, including this paragraph (g), in subcontracts for the essential services.

(End of Clause)

I.93 PROHIBITION ON A BYTEDANCE COVERED APPLICATION (JUN 2023) BI.155

(a) Definitions. As used in this clause-

Covered application means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

Information technology, as defined in 40 U.S.C. 11101(6)-

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use-

(i) Of that equipment; or

(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

(b) Prohibition. Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, "No TikTok on Government Devices" Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors. The Contractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor's employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

(c) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

I.94 <u>DISPLAY OF HOTLINE POSTERS (APR 2023) BI.156</u>

(a) Definition. As used in this clause-

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

(b) Display of hotline poster(s).

(1)(i) The Contractor shall display prominently the DoD fraud, waste, and abuse hotline poster prepared by the DoD Office of the Inspector General, in effect at time of contract award, in common work areas within business segments performing work under Department of Defense (DoD) contracts.

(ii) For contracts performed outside the United States, when security concerns can be appropriately demonstrated, the contracting officer may provide the contractor the option to publicize the program to contractor personnel in a manner other than public display of the poster, such as private employee written instructions and briefings.

(2) If the contract is funded, in whole or in part, by Department of Homeland Security (DHS) disaster relief funds and the work is to be performed in the United States, the DHS fraud hotline poster shall be displayed in addition to the DoD hotline poster. If a display of a DHS fraud hotline poster is required, the Contractor may obtain such poster from-

(i) DHS Office of Inspector General/MAIL STOP 0305, Attn: Office of Investigations - Hotline, 245 Murray Lane SW, Washington, DC 20528-0305; or

(ii) Via the internet at https://www.oig.dhs.gov/assets/Hotline/DHS_OIG_Hotline-optimized.jpg.

(c)(1) The DoD hotline poster may be obtained from: Defense Hotline, The Pentagon, Washington, D.C. 20301-1900, or is also available via the internet at https://www.dodig.mil/Resources/Posters-and-Brochures/.

(2) If a significant portion of the employee workforce does not speak English, then the poster is to be displayed in the foreign languages that a significant portion of the employees speak.

(3) 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 required poster at the website.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed $6 million on the date of subcontract award, except when the subcontract is for the acquisition of a commercial item.

(End of clause)

I.95 <u>UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (APR 2023) BI.157</u>

(a) Except as stated in paragraph (b) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the NAFI/Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an obligation that conflicts with this contract as executed, the following shall govern:

(1) Any such clause is unenforceable against the NAFI.

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

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

(4) Any such clause is deemed to be superseded by the terms of the NAF contract as executed.

(b) Paragraph (a) of this clause does not apply to indemnification by the NAFI that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(End of clause)

I.96 RESTRICTION ON ACQUISITION OF PERSONAL PROTECTIVE EQUIPMENT AND CERTAIN OTHER ITEMS FROM NON-ALLIED FOREIGN NATIONS (APR 2023) BI.158

(a) Definitions. As used in this clause-

"Covered country" means -

(1) The Democratic People's Republic of North Korea;

(2) The People's Republic of China;

(3) The Russian Federation; or

(4) The Islamic Republic of Iran.

"Covered item" means an article or item of-

(1) Personal protective equipment for use in preventing spread of disease, such as by exposure to infected individuals or contamination or infection by infectious material including-

(i) Nitrile and vinyl gloves;

(ii) Surgical masks;

(iii) Respirator masks and powered air purifying respirators and required filters;

(iv) Face shields and protective eyewear;

(v) Surgical and isolation gowns and head and foot coverings; or

(vi) Clothing; and

(vii) The materials and components thereof, other than sensors, electronics, or other items added to and not normally associated with such personal protective equipment or clothing; or

(2) Sanitizing and disinfecting wipes, testing swabs, gauze, and bandages.

(b) Restriction. Except as provided in paragraph (c) of this clause, the Contractor shall not deliver under this contract a covered item of personal protective equipment or other items, from a covered country, for use in preventing the spread of disease, such as by exposure to infected individuals, or contamination or infection by infectious material (10 U.S.C. 2533e, now 10 U.S.C. 4875).

(c) Subcontracts. The Contractor shall insert this clause, including this paragraph (c), without alteration other than to identify the appropriate parties, in subcontracts that are for the acquisition of personal protective equipment and covered items, including subcontracts for commercial products and commercial services including COTS items.

(End of clause)

I.97 PROHIBITION ON CERTAIN PROCUREMENTS FROM THE XINJIANG UYGHUR AUTONOMOUS REGION (APR 2023) BI.159

(a) Definitions. As used in this clause-

"Forced labor" means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer themselves voluntarily.

"Person" means-

(1) A natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group; or

(2) Any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in paragraph (1) of this definition. "XUAR" means the Xinjiang Uyghur Autonomous Region of the People's Republic of China.

(b) Prohibition. The Contractor shall not provide any products mined, produced, or manufactured wholly or in part by forced labor from XUAR or from an entity that has used labor from within or transferred from XUAR as part of any forced labor programs throughout the period of performance of the contract.

(a) Subcontracts. The Contractor shall insert this clause, including this paragraph (c), without alteration other than to identify the appropriate parties, in subcontracts including subcontracts for commercial products, and commercially available off-the-shelf items, and commercial services.

(End of clause)

I.98 PAYMENT CARD INDUSTRY DATA SECURITY STANDARDS (PCI-DSS) COMPLIANCE - CONCESSIONAIRES (JUN 2025) BI.161

A Contractor processing point of sale transactions or who otherwise has access to payment cardholder data, shall adhere to the most current version of the Payment Card Industry Data Security Standards (PCI DSS). These requirements are available at https://www.pcisecuritystandards.org. The Contractor shall also include this clause in any subcontract that provides access to payment cardholder data.

(End of clause)

I.99 RESTRICTION ON PAPER STRAWS (JUN 2025) BI.162

In accordance with Executive Order 14208, "Ending Procurement and Forced Use of Paper Straws", concessionaires shall procure and utilize beverage straws that have the strength and durability of plastic straws and that are advantageous to the NAFI in consideration of both quality and price. Paper straws may not be procured or utilized during the performance of this contract.

(End of clause)

********** **- END OF SECTION I -** **********

PART III – LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

SECTION J – LIST OF ATTACHMENTS

J.1 EXAMPLE HOLIDAY MENU (THANKSGIVING, CHRISTMAS, AND ARMY BIRTHDAY)

J.2 ESM NUMBERS BY GARRISON

ESM Population (as of 27 March 2026)

BLDG 780
Population of MEC 00 (SIK) Soldiers: 4,845
Population of MEC 09 (ESM) Soldiers: 799

BLDG 503
Population of MEC 00 (SIK) Soldiers: 2,389
Population of MEC 09 (ESM) Soldiers: 3,902

BLDG 2085
Population of MEC 00 (SIK) Soldiers: 71
Population of MEC 09 (ESM) Soldiers: 1,045

BLDG 102
Population of MEC 00 (SIK) Soldiers: 710
Population of MEC 09 (ESM) Soldiers: 3,750

BLDG 357
Population of MEC 00 (SIK) Soldiers: 4,647
Population of MEC 09 (ESM) Soldiers: 890

Source: DAG1

J.3 U.S. ARMY GARRISON (USAG) HI – SCHOFIELD BARRACKS – ATTACHMENTS

J.3.1 BLDG 780 - GARRISON SPECIFIC INFORMATION

J.3.1.1 BLDG 780 – GARRISON EARNINGS AND EXPENDITURE REPORT

J.3.1.2 BLDG 780 – DAILY HEADCOUNT

J.3.1.3 BLDG 780 – MASTER MENU - TBD

J.3.2 SCHOFIELD BARRACKS - WAGE DETERMINATION - SERVICE POSITIONS
Service Contract Act Wage Determination
Wage Determination Number: CBA-2026-255
COUNTY = HONOLULU

J.3.3 SCHOFIELD BARRACKS - CONSTRUCTION WAGE RATE
Davis-Bacon Act Wage Determination - BUILDING
General Decision Number: HI20260001 01/16/2026
COUNTY = HONOLULU

J.3.4 BLDG 780 - BUILDING DRAWING

J.3.5 BLDG 780 - GOVERNMENT FURNISHED EQUIPMENT LISTING

J.4 USAG HI – BLDG 503, FORT SHAFTER – ATTACHMENTS - TBD

J.4.1 FORT SHAFTER - GARRISON SPECIFIC INFORMATION

J.4.1.1 FORT SHAFTER - GARRISON EARNINGS AND EXPENDITURE REPORT

J.4.1.2 FORT SHAFTER – DAILY HEADCOUNT

J.4.1.3 FORT SHAFTER – MASTER MENU

J.4.2 FORT SHAFTER - WAGE DETERMINATION – SERVICE POSITIONS
Service Contract Act Wage Determination
(Wage Determination Number: TBD)
COUNTY = HONOLULU

J.4.3 FORT SHAFTER - CONSTRUCTION WAGE RATE
Davis-Bacon Act Wage Determination - BUILDING
(Wage Determination Number: TBD)
COUNTY = HONOLULU

J.4.4 FORT SHAFTER – DFAC BUILDING DRAWING

J.4.5 FORT SHAFTER – DFAC GOVERNMENT FURNISHED EQUIPMENT LISTING

J.5 USAG HI – BLDG 2085, SCHOFIELD BARRACKS – ATTACHMENTS - TBD

J.5.1 BLDG 2085 - SPECIFIC INFORMATION

J.5.1.1 BLDG 2085 - GARRISON EARNINGS AND EXPENDITURE REPORT

J.5.1.2 BLDG 2085 – DAILY HEADCOUNT

J.5.1.3 BLDG 2085 – MASTER MENU

J.5.4 BLDG 2085 – DFAC BUILDING DRAWING

J.5.5 BLDG 2085 – DFAC GOVERNMENT FURNISHED EQUIPMENT LISTING

J.6 USAG HI – BLDG 102, WHEELER AAF – ATTACHMENTS - TBD

J.6.1 BLDG 102 - GARRISON SPECIFIC INFORMATION

J.6.1.1 BLDG 102 - GARRISON EARNINGS AND EXPENDITURE REPORT

J.6.1.2 BLDG 102 – DAILY HEADCOUNT

J.6.1.3 BLDG 102 – MASTER MENU

J.6.2 BLDG 102 - WAGE DETERMINATION – SERVICE POSITIONS
Service Contract Act Wage Determination
(Wage Determination Number: TBD)
COUNTY = HONOLULU

J.6.3 BLDG 102 - CONSTRUCTION WAGE RATE
Davis-Bacon Act Wage Determination - BUILDING
(General Decision Number: TBD)
COUNTY = HONOLULU

J.6.4 BLDG 102 - DFAC BUILDING DRAWING

J.6.5 BLDG 102 - GOVERNMENT FURNISHED EQUIPMENT LISTING

J.7 USAG HI – BLDG 357 – SCHOFIELDS BARRACKS – ATTACHMENTS - TBD

J.7.1 BLDG 357 - GARRISON SPECIFIC INFORMATION

J.7.1.1 BLDG 357 - GARRISON EARNINGS AND EXPENDITURE REPORT

J.7.1.2 BLDG 357 – DAILY HEADCOUNT

J.7.1.3 BLDG 357 – MASTER MENU

J.7.4 BLDG 357 – DFAC BUILDING DRAWING

J.7.5 BLDG 357 - DFAC GOVERNMENT FURNISHED EQUIPMENT LISTING

J.7.5.1 BLDG 357 – DFAC GFE REPLACEMENT LIST

J.8 NUTRITIONAL RESOURCES

AR 40-25/OPNAVINST 10110.1/MCO 10110.49/AFI 44-14, "Nutrition and Menu Standards for Human Performance Optimization," January 3, 2017.

Army Buyers Guide, current edition (published Nov 2023)

DODM 1338.10, DoD Food Service Program, August 26, 2022.

Food Service Guidelines for Federal Facilities, 2017.

U.S. Food and Drug Administration, Menu Labeling Requirements, May 7, 2018.

TB MED 530/NAVMED P-5010-1/AFMAN 48-147_IP, "Tri-Service Food Code," March 1, 2019

J.9 FINANCIAL DATA INCLUDING SALES VOLUMES FOR EACH SELECTED DFAC – SEE SECTION J.3.

J.10 PAST ANNUAL COST FOR THE REPAIRS & MAINTENANCE OF EQUIPMENT AT EACH SELECTED DFAC

J.11 SAMPLE UTILITY RATES, EQUIPMENT COSTS, AND/OR OTHER EXPENSES CURRENTLY USED TO OPERATE DFACs

J.12 SAMPLE REFUSE RATES

J.13 FOOD PURCHASES FOR SELECTED DFACS

J.14 EXAMPLE OF ACTION STATIONS IN AN ARMY FOOD OPERATION

Action station examples: omelet station, stir-fry bar, Tex-Mex burrito / bowl station, salads built to order, sandwich bar, pasta bar, breakfast sandwich bar, ramen bar, carving stations or made to order pizza.

J.15 FOOD AND NUTRITIONAL STANDARDS

J.16 CONSTRUCTION GUIDE V3

J.17 OMB MEMORANDUM M-17-12

whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2017/m-17-12_0.pdf

J.18 OMB MEMORANDUM M-16-14

Review-Doc-2016-OIRA-530-1.docx (whitehouse.gov)

J.19 VALUE DOLLAR INFORMATION

J.20 TRANSACTION DATA CAPTURE REPORT

********** **- END OF SECTION J -** **********

PART IV – REPRESENTATIONS AND INSTRUCTIONS
SECTION K – REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

K.1 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (NOV 2004) BK-001

(a) The OFFEROR certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other OFFEROR or competitor relating to-

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the OFFEROR, directly or indirectly, to any other OFFEROR or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the OFFEROR to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the OFFEROR's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision

Full Name	Title
_____	_____
_____	_____
_____	_____

(*insert full name of person(s) in the OFFEROR's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the OFFEROR's organization*);

(i) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision; and

(ii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision.

(c) If the OFFEROR deletes or modifies subparagraph (a)(2) of this provision, the OFFEROR must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.
(End of Provision)

K.2 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (NOV 2004) BK.004

(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, or receiving stolen property; and

(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.

(ii) The OFFEROR has _____ * has not _____*, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions). This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(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 does a prudent person in the ordinary course of business dealings normally possess.

(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 NAFI, the Contracting Officer may terminate the contract resulting from this solicitation for default.
(End of Provision)

K.3 PLACE OF PERFORMANCE (NOV 2004) BK-007

(a) The OFFEROR or respondent, in the performance of any contract resulting from this solicitation,

_____* intends, _____* does not intend to use one or more plants or facilities located at a different address from the address of the OFFEROR or respondent as indicated in this proposal or response to request for information.

(b) If the OFFEROR or respondent checks "intends" in paragraph (a) of this provision, it shall insert in the following spaces the required information:

Place of Performance (Street Address, City, State, County, Zip Code)	Name and Address of Owner and Operator of the Plant or Facility if Other than OFFEROR or Respondent

(End of Provision)

K.4 AUTHORIZED NEGOTIATORS

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:

Name	Title	Telephone Number

K.5 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (DEC 2010) (BK.017)

By submission of its offer, the OFFEROR represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (i.e., if it has any contract containing the clause Employment Reports on Veterans), it has submitted the most recent VETS-100A Report required by that clause.
(End of Provision)

K.6 ELECTRONIC AND INFORMATION TECHNOLOGY STANDARDS

The OFFEROR represents their product meets _____ *or _____* provides equivalent facilitation to the technical provisions pursuant to Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) as amended by P.L.105-220 under Title IV (Rehabilitation Act Amendments of 1998) all Electronic and Information Technology (EIT) developed, procured, maintained and/or used under this contract shall be in compliance with the "Electronic and Information Technology Accessibility Standards" set forth by the Architectural and Transportation Barriers Compliance Board (also referred to as the "Access Board") in 36 CFR Part 1194. Specifically, See Section 1194.22 for Web-based Intranet and Internet Information and Applications. If none of the offers that meet all applicable provisions of the Access Board's standards could be accepted without imposing an undue burden upon the agency or component, or if none of the OFFERORS propose goods or services that fully meet all the applicable Access Board's provisions, those OFFERORS whose products or services meet some of the applicable provisions will be considered eligible for award.

Award will not be made to an OFFEROR meeting all or some of the applicable Access Board provisions if award would impose an undue burden upon the agency. The complete text of Section 508 Final Standards can be accessed at http://www.access-board.gov/.

K.7 REPRESENTATION FOR USE OF CLOUD COMPUTING (JUL 2017) (BK.021)

(a) Definition. "Cloud computing," as used in this provision, means a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. This includes other commercial terms, such as on-demand self-service, broad network access, resource pooling, rapid elasticity, and measured service. It also includes commercial offerings for software-as-a-service, infrastructure-as-a-service, and platform-as-a-service.

(b) The OFFEROR shall indicate by checking the appropriate blank in paragraph (c) of this provision whether the use of cloud computing is anticipated under the resultant contract.

(c) Representation. The OFFEROR represents that it—

_____* Does anticipate that cloud computing services will be used in the performance of any contract or subcontract resulting from this solicitation.

_____ * Does not anticipate that cloud computing services will be used in the performance of any contract or subcontract resulting from this solicitation.
(End of Provision)

K.9 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2020) BK.022

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/NAFI in the performance of any contract, subcontract, or other contractual instrument" in the provision at BK.025 Covered Telecommunications Equipment or Services—Representation.

(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 **BI.151**, **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) *Representation*. 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—

(3) 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)

K.10 <u>CERTIFICATION REGARDING TRAFFICKING IN PERSONS</u> (MAR 2020) BK.023

(a) The term "commercially available off-the-shelf (COTS) item," is defined in the clause of this solicitation entitled "Combating Trafficking in Persons" (BI.153).

(b) The apparent successful Offeror shall submit, prior to award, a certification, as specified in paragraph (c) of this provision, for the portion (if any) of the contract that-

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

(2) Has an estimated value that exceeds $500,000.

(c) The certification shall state that-

(1) It has implemented a compliance plan to prevent any prohibited activities identified in paragraph (b) of the clause at BI.153, Combating Trafficking in Persons, and to monitor, detect, and terminate the contract with a subcontractor engaging in prohibited activities identified at paragraph (b) of the clause at BI.153, Combating Trafficking in Persons; and

(2) After having conducted due diligence, either-

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

(ii) If abuses relating to any of the prohibited activities identified in BI.153(b) have been found, the Offeror or proposed subcontractor has taken the appropriate remedial and referral actions.
(End of Provision)

K.11 NOTICE OF CONTINUATION OF ESSENTIAL CONTRACTOR SERVICES (MAR 2020) (BK.024)

(a) *Definitions*. Essential contractor service and mission-essential functions have the meanings given in the clause at 252.237-7023, Continuation of Essential CONTRACTOR Services, in this solicitation.

(b) The CONTRACTOR shall provide with its offer a written plan describing how it will continue to perform the essential contractor services when requested and determined as a Mission Essential CONTRACTOR Services, during periods of crisis. The CONTRACTOR shall-

(1) Identify provisions made for the acquisition of essential personnel and resources, if necessary, for continuity of operations for up to 30 days or until normal operations can be resumed;

(2) Address in the plan, at a minimum—

(i) Challenges associated with maintaining essential contractor services during an extended event, such as a pandemic that occurs in repeated waves;

(ii) The time lapse associated with the initiation of the acquisition of essential personnel and resources and their actual availability on site;

(iii) The components, processes, and requirements for the identification, training, and preparedness of personnel who are capable of relocating to alternate facilities or performing work from home;

(iv) Any established alert and notification procedures for mobilizing identified essential contractor service personnel; and

(v) The approach for communicating expectations to contractor employees regarding their roles and responsibilities during a crisis.

(End of Provision)

K.12 COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES (AUG 2020) BK.025

(a) *Definitions*. As used in this provision, "covered telecommunications equipment or services" has the meaning provided in the clause BI.151, 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) *Representation.* 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.
(End of Provision)

K.13 BUY AMERICAN CERTIFICATE (DEC 2022) BK.010

(a) (1) The Offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product and that each domestic end product listed in paragraph (c) of this provision contains a critical component.

(2) The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select "no". (3) The terms "domestic end product," "end product," and "foreign end product" are defined in the clause of this solicitation entitled "Buy American-Supplies."

(3) The Offeror shall separately list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).

(4) The terms "commercially available off-the-shelf (COTS) item," "critical component," "domestic end product," "end product," and "foreign end product" are defined in the clause of this solicitation entitled "Buy American-Supplies."

(b) Foreign End Products:

Line Item No Country of Origin Exceeds 55% domestic content
(yes/no)

_____ _____ _____
_____ _____ _____
_____ _____ _____
_____ _____ _____

[List as necessary]

(c) Domestic end products containing a critical component:

Line Item No. _____

[List as necessary]

(d) The NAFI will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation, except the NAFI is not subject to the guidelines pertaining to small business programs and set asides as described in FAR Part 19.

(End of provision)

K.14 PROHIBITION ON PROCUREMENT OF CERTAIN ITEMS CONTAINING PERFLUOROOCTANE SULFONATE OR PERFLUOROOCTANOIC ACID - REPRESENTATION (APR 2023) (BK.028)

(a) Effective April 1, 2023, in accordance with section 333 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283) the Department of Defense may not procure any covered items that contain perfluorooctane sulfonate (PFOS) or perfluorooctanoic acid (PFOA). A covered item includes:

(1) Nonstick cookware or cooking utensils for use in galleys or dining facilities; and

(2) Upholstered furniture, carpets, and rugs that have been treated with stain resistant coatings.

(b) Representation. By submission of its offer, the Offeror represents that it is not providing as part of its offer any covered items containing PFOS or PFOA.

(End of provision)

********** **- END OF SECTION K -** **********

PART IV – REPRESENTATIONS AND INSTRUCTIONS
SECTION L – INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

L.1 DEFINITIONS (NOV 2004) (BL.001)

(a) "Solicitation" means an invitation for bids (IFB) when using sealed bidding and a Request for Proposal (RFP) when an acquisition is negotiated.

(b) "Offer" means "bid" when sealed bidding is used and "proposal" when an acquisition is negotiated.
(End of Provision)

L.2 AMENDMENTS TO SOLICITATIONS (NOV 2004) (BL.004)

(a) If this solicitation is amended, then all terms and conditions that are not modified remain unchanged.

(b) OFFERORS shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer bid, (3) by letter or telegram, or (4) by facsimile, if facsimile offers are authorized in the solicitation. The NAFI must receive the acknowledgement by the time and at the place specified for receipt of offers.
(End of Provision)

L.3 SUBMISSION OF OFFERS (NOV 2004) (BL.007)

(a) Offers and modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means)-

(1) Addressed to the office specified in the solicitation; and

(2) Showing the time and date specified for receipt, the solicitation number, and the name and address of the OFFEROR.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

(d) Offers submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

(e) Item samples, if required, must be submitted within the time specified for receipt of offers. Unless otherwise specified in the solicitation these samples shall be (1) submitted at no expense to the NAFI, and (2) returned at the sender's request and expense, unless they are destroyed during pre-award testing.
(End of Provision)

L.4 EXPLANATION TO PROSPECTIVE OFFERORS (NOV 2004) (BL.008).

Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.
(End of Provision)

L.5 FAILURE TO SUBMIT OFFER (NOV 2004) (BL.010).

Recipients of this solicitation not responding with an offer should not return this solicitation, unless it specifies otherwise. Instead, they should advise the issuing office by letter, postcard, or established electronic commerce methods, whether they want to receive future solicitations for similar requirements. If a recipient does not submit an offer and does not notify the issuing office that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.
(End of Provision)

L.6 PREPARATION OF OFFERS (NOV 2004) (BL.013)

(a) OFFERORS are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at the OFFEROR's risk.

(b) Each OFFEROR shall furnish the information required by the solicitation. The OFFEROR shall sign the offer and print or type its name on the Schedule and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by the agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(c) For each item offered, OFFERORS shall (1) show the unit price/cost, including, unless otherwise specified, packaging, packing and preservation and (2) enter the extended price/cost for the quantity of each item offered in the Amount column of the Schedule. In case of discrepancy between a unit price/cost and an extended price/cost, the unit price/cost will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

(d) Offers for supplies or services other than those specified will not be considered unless authorized by the solicitation.

(e) OFFERORS must state a definite time for delivery of supplies or for performances of services, unless otherwise specified the solicitation.

(f) Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.

(End of Provision)

L.7 SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE (NOV 2004) (BL.020)

Offers submitted in response to this solicitation shall be in the English language. Offers received in other than English shall be rejected.
(End of Provision)

L.8 INSTRUCTIONS TO OFFERORS-COMPETITIVE (NOV 2004) (BL.021)

(a) Definitions. As used in this provision-

"Discussions" are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the OFFEROR being allowed to revise its proposal.

"In writing" or "written" means any worded or numbered expression which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

"Proposal modification" is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

"Proposal revision" is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

"Time," if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) Amendments to solicitations. If this solicitation is amended, all terms and conditions that are not amended remain unchanged. OFFERORS shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) Submission, modification, revision, and withdrawal of proposals.

(1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the OFFEROR. OFFERORS using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (b)(1)(i) and (b)(1)(ii) of this provision.

(2) The first page of the proposal must show-

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the OFFEROR (and electronic address if available);

(iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;

(iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the OFFEROR's behalf with the NAFI in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority unless that evidence has been previously furnished to the issuing office.

(3) Submission, modification, revision, and withdrawal of proposals.

(i) OFFERORS are responsible for submitting proposals, and any modifications or revisions, so as to reach the office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated office on the date that proposal or revision is due.

(ii) Any proposal, modification, or revision received at the office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and-

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government/NAFI infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(B) There is acceptable evidence to establish that it was received at the installation designated for receipt of offers and was under the Government/NAFI control prior to the time set for receipt of offers; or

(C) It is the only proposal received.

(iii) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the NAFI will be considered at any time it is received and may be accepted.

(A) Acceptable evidence to establish the time of receipt at the installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government/NAFI personnel.

(B) If an emergency or unanticipated event interrupts normal processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent NAFI requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal processes resume.

(C) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision, Facsimile Proposals. Proposals may be withdrawn in person by an OFFEROR or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

(D) Unless otherwise specified in the solicitation, the OFFEROR may propose to provide any item or combination of items.

(E) OFFERORS shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision, Evaluation of Foreign Currency Offers, is included in the solicitation.

(F) OFFERORS may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(G) OFFERORS may submit revised proposals only if requested or allowed by the Contracting Officer.

(H) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) Offer expiration date. Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the OFFEROR).

(e) Restriction on disclosure and use of data. OFFERORS that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the NAFI except for evaluation purposes, shall-

(1) Mark the title page with the following legend: This proposal includes data that shall not be disclosed outside the NAFI and shall not be duplicated, used, or disclosed--in whole or in part--for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this OFFEROR as a result of--or in connection with--the submission of this data, the NAFI shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the NAFI's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [OFFEROR shall insert numbers or other identification of sheets]; and

(2) Mark each sheet of data it wishes to restrict with the following legend: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) Contract award.

(1) The NAFI intends to award a contract or contracts resulting from this solicitation to the responsible OFFEROR(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and sub-factors in the solicitation.

(2) The NAFI may reject any or all proposals if such action is in the NAFI's interest.

(3) The NAFI may waive informalities and minor irregularities in proposals received.

(4) The NAFI intends to evaluate proposals and award a contract without discussions with OFFERORS (except for clarifications). Therefore, the OFFEROR's initial proposal should contain the OFFEROR's best terms from a cost or price and technical standpoint. The NAFI reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer 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.

(5) The NAFI reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the OFFEROR specifies otherwise in the proposal.

(6) The NAFI reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the NAFI's best interest to do so.

(7) Exchanges with OFFERORS after receipt of a proposal do not constitute a rejection or counteroffer by the NAFI.

(8) The NAFI may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or sub-line items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the NAFI.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10)A written award or acceptance of proposal mailed or otherwise furnished to the successful OFFEROR within the time specified in the proposal shall result in a binding contract without further action by either party.

(11)The NAFI may disclose the following information in post-award debriefings to other OFFERORS:

(i)The overall evaluated cost or price and technical rating of the successful OFFEROR;

(ii) The overall ranking of all OFFERORS, when any ranking was developed by the agency during source selection;

(iii) A summary of the rationale for award; and

(iv) For acquisitions of commercial items, the make and model of the item to be delivered by the successful OFFEROR.

(End of Provision)

L.9 TYPE OF CONTRACT (NOV 2004) (BL.023)

The NAFI contemplates award of one firm-fixed price IDIQ revenue-generating contract resulting from this solicitation.
(End of Provision)

L.10 SERVICE OF PROTEST (NOV 2004) (BL.025)

(a) Protests, as defined in Army Regulation AR 215-4, NAF Contracting Regulation, are to be filed directly with the Contracting Officer as follows:

Ms. Jennifer Sherman
Chief Acquisition Officer
US Army Installation Management Command, HQ DFMWR, NAF Contracting
2405 Gun Shed Road, Bldg. 2261, 1st Floor, Room 1200
Joint Base Fort Sam Houston, San Antonio, TX 78234
Email: jennifer.c.sherman.naf@army.mil

(b) Any protest received shall be processed in accordance with AR 215-4.
(End of Provision)

L.11 PRE-PROPOSAL CONFERENCE/SITE VISIT

(a) **Location: Nehelani Community Activity Center**
1249 Kolekole Ave
Schofield Barracks, HI
Date: Wednesday, 27 May 2026
Time: 0900 HST

(b) https://home.army.mil/hawaii/about/visitor-information

LI.12 DELIVERABLES
L.12.1 PROPOSAL SUBMITTAL REQUIREMENTS

(a) OFFERORS shall submit a separately prepared digital file clearly organized sections accordance with the requested information further described in Section L.12.2 – Volume Submissions.

(b) The OFFEROR shall provide concise, complete, and comprehensive responses to each of the areas outlined below. OFFEROR should ensure they have read the entire Solicitation, and fully understand all the terms and conditions specified herein. When evaluating an OFFEROR's capability to perform the prospective contract, the Fund will consider how well the OFFEROR complied with these instructions.

(c) The OFFEROR shall submit all proposal information in electronic format. Text and graphics portions of the electronic copies shall be in a format readable by Microsoft (MS) Word OR Adobe Acrobat Portable Document Format (PDF). Data submitted in spreadsheet format shall be readable by Microsoft 365 Excel Application. OFFERORS shall submit ALL Volumes I, II, and III via DoD SAFE website: https://safe.apps.mil. Do not encrypt or secure the PDF file. SAFE allows up to 8GB files.

(d) **OFFEROR shall send an email request to the Contracting Officer for a DoD SAFE "Drop off Request" NOT LATER THAN TWO (2) business day prior to the solicitation due date indicated in paragraph (i) below in this section.**

(e) Submission of digital copies by means other than this method may result in a failure of delivery due to email size constraints. OFFERORS are encouraged to verify receipt of emailed submission of proposals before the proposal response date and time.

(f) When submitting digital files, these files shall be organized with "Table of Contents" will identify major areas, paragraphs and subparagraphs by number and title, as well as by page number and volume locations. Tab indexing will be used to identify sections as appropriate, ordered, and enumerated to correspond to how the documents are requested under Section L.12.2 – Volume Submissions. Digital files not properly organized will be returned by the Contracting Officer for resubmission. Do not encrypt or secure the PDF file.

(g) Digital Introduction/Covers Letters shall include the following reference:

REQUESTS FOR PROPOSAL
<<ENTER OFFEROR'S Company Name>>
Document Number: NAFBA1-26-R-0028
US ARMY – CSDV PROGRAM
Closing Date/Time: **Friday, 31 JULY 2026** at **4:00 PM CENTRAL TIME.**

(h) Submit proof of "digital file" delivery record to the following:

Mr. Aubrey Lewis, Contracting Officer/email: aubrey.b.lewis.naf@army.mil

Ms. Leslie Perez, Senior Contract Specialist/email: leslie.m.perez9.naf@army.mil

Ms. Natalie Sanchez, Contract Specialist/email: natalie.a.sanchez20.naf@army.mil

Closing Date/Time: **Friday, 31 JULY 2026** at **4:00 PM CENTRAL TIME.**

(i) Questions (RFIs) regarding the RFP shall be received no later than **4:00 PM CENTRAL TIME on FRIDAY, 5 JUNE 2026.**

L.12.2 VOLUME SUBMISSIONS

Proposals shall be submitted in THREE (3) SEPARATE VOLUMES or files as listed and further described below. Each of the VOLUMES must be complete and appropriately tabbed by PARTS so the evaluation of each part may be conducted independently. **NO Hardbound Copy.** Font should be no smaller than Ariel 10. Charts, graphics and data tables can utilize a smaller font size as long as it is legible when digitally magnified if needed.

(a) VOLUME I – Pricing Proposal – **One (1)** Complete Electronic Copy Only
(b) VOLUME II – Business Plan Proposal – **One (1)** Complete Electronic Copy Only
(c) VOLUME III – Management Plan Proposal – **One (1)** Complete Electronic Copy Only.

(d) Volume Descriptions

(1) **VOLUME I – PRICE PROPOSAL**: OFFERORs shall include the following in its Price Proposal:

(i) **Part I – Acknowledgement of documents and issued amendment(s)**

(A) **A completed DA Form 4069, Page 1**. OFFERORs shall complete Blocks 15A through 18. This is the first page of the solicitation package titled "Solicitation, Offer and Award (Nonappropriated Funds)."

(B) **Completed DA Form 4073, Page 1**. OFFERORs shall acknowledge ALL amendments issued under this solicitation. Acknowledgment is accomplished by one of the three methods identified in BLOCK 11 on page 1 of amendment, DA Form 4073. OFFERORS to complete BLOCK 8 – Name and Address of Contractor to include BLOCKS 15A through 15C.

(ii) **Part II – Section K and Responsibility Information**. OFFERORs shall complete Section K - "Representations, Certifications and other statements." An affirmative responsibility determination must be made by the Contracting Officer before and award can be made.

(iii) **Part III** – **PRICING - IDIQ**. OFFERORS shall complete Section B.3 – Fee Schedule.

(iv) **Part IV** – **PRICING – BLDG 780, SCHOFIELD BARRACKS PROPOSAL:** Sample menu items (with pricing) that accommodate the broad range of consumer preferences (7 days' worth of breakfast, lunch, dinner, and a la carte offerings that would be available to "cash" customers / non-ESM payment patrons).

(2) **VOLUME II – FACTOR 1 - BUSINESS PLAN PROPOSAL**. OFFEROR proposal, at a minimum, shall include the sub-part elements listed below. The overall length of the submission shall not exceed the total number of pages in each sub-part elements. Plans, Charts, Exhibits, Drawings, Concepts in each sub-part elements requested are counted as part of narrative page limitations indicated. **NO COST OR PRICE INFORMATION SHALL BE INCLUDED IN THE BUSINESS PLAN PROPOSAL.**

(i) **SUB-FACTOR 1.1 – GENERAL OPERATIONS** *(Not to exceed thirty (30) Narrative Pages)*.

OFFEOR shall provide:

(A) A detailed business plan that demonstrates the OFFEROR's ability to transition, transform, and operate CSDV locations contained in section C.5 - Locations as contemporary CSDV venues at both the macro and micro level, and front and back of house.

(B) Capability to be flexible in approach for providing tailorable and unique solutions at garrisons regardless of scale.

(C) Capability to implement different types of:

1. Ordering platforms - and name specifically what those are.

2. Payment platforms – and name specifically what those are.

3. Building and sustaining a customer base to generate a wide network of venue options that operate in the "Healthy Options" space and others as deemed profitable and appropriate for patron populations.

(D) Methodologies to ensure successful sustainability of a facility once "opened" as a CSDV after the implementation process is complete, to include when, why, and how changes are made to the facility and menus over time.

(E) Specific phases and step by step process to be utilized to successfully expand and stand up CSDV operations at the rest of the identified building locations included as a part of this RFP. The following aspects should be addressed within the strategic phased approach:

1. Specific timetables and other pertinent details associated with transitioning, such as personnel, equipment, materials/supplies etc. that the offeror will need to successfully operate.

2. Notional timeline for location openings.

(ii) **SUB-FACTOR 1.2 – NUTRITIOUS FOOD AND BEVERAGE SERVICES** *(Not to exceed twenty (20) Narrative Pages - item "(J)" is excluded from this page limitation)*.

OFFEROR shall:

(A) Present strategies that will bring excellent quality food with ingredients, recipes and fresh preparation methods that meet the nutritional guidelines supporting a healthy lifestyle as noted in section C.6.6 – Nutrition to include sample ESM Menus with dollar amounts.

(B) Provide an innovative portfolio of service concepts as implementable options within a CSDV. Inclusive of a mix of OFFEROR brands as well as regional and locally owned brands or national casual restaurant brands that are popular with the garrison populations; OFFEROR shall describe its internal capabilities versus utilization of external partners.

(C) Describe the development process for determining a facility's design to create intended ambiance and corresponding menu offerings - inclusive of the data utilized in the decision making and other considerations taken into account.

(D) Describe how it adapts to changing food service trends, new market forms of food, and changing dietary patterns evolving throughout the food service industry that will ensure a maximized level of patronage, as well as meets the dietary requirements for ESM soldiers outlined in section C.6.6 - Nutrition.

(E) Describe the OFFEROR's specific phased approach from "concept" to facility "open" in accordance with phases identified in Section J.16 – Construction Guide V3.

(F) Provide detailed information as to 'how' the OFFEROR sources and procures food/ingredients while still seeking best-in-class pricing that will enable the OFFEROR to provide quality food at competitive prices, and ability to stay within the ESM meal rates by meal and overall per day as outlined in section B.2 – Eligible Patrons.

(G) Provide detailed information regarding their waste reduction program.

(H) OFFEROR shall describe supply chain disruption mitigation strategy.

(I) Describe the menu planning methodology (monthly or quarterly or yearly) and the minimum menu rotation plans/projections (ie: 6 weeks, 8 weeks, etc.) to include OFFEROR's approach to incorporating seasonal offerings, special holiday meals, and special events for both the ESM and cash patrons.

(J) Provide nine different sample menu options (3 breakfast, 3 lunch, and 3 dinners) that meet the outlined nutritional guidelines, meal definition, serving size/portions, and the applicable ESM dollar amount per meal period and total per day.

(iii) **SUB-FACTOR 1.3 - INFORMATION TECHNOLOGY (IT) REQUIREMENTS** *(Not to exceed ten (10) Narrative Pages)*.

OFFEORS shall:

(A) Describe their capability to establish a business supporting commercial environment that supports all the following, AND the specific technology system(s) the OFFEROR proposes to utilize to achieve all the following in the operation of a CSDV - business transaction management (front and back of house), menu planning, inventory management, food supply chain management, and kitchen display systems.

(B) Describe the reporting platform capabilities and provide pictures/diagrams of the dashboard and/or reporting capability that the OFFEROR proposes to utilize within the operation of a CSDV that will provide the OFFEROR and the A-FIT team visibility and analysis of: consumable data on general business operations, recurrent rhythmical patterns and trends of - the patrons, meals/items sold, patron feedback, nutritional content consumed, and monitoring of decline and growth within the business cycle that will enable determination of CSDV program effectiveness in accordance with Section C.6.3.(a)(5). OFFEROR shall indicate if this will be available at the onset of the operation or capabilities required to meet this requirement.

(C) Describe the point-of-sale system and terminals to be utilized in support of the OFFEROR's business model.

(D) Provide the details associated with OFFEROR's proposed alternate, but equally accurate method to AFMIS, that will account for and establish controls within the point of sale (POS) that ensures individual meal rates and total daily rate (for ESM) are not exceeded by each Soldier in the event that AFMIS is not updated to real time decrement and tracking at the start of the contract and/or for utilization during any AFMIS outages.

(iv) **SUB-FACTOR 1.4 – MARKETING** *(Not to exceed (5) Narrative Pages)*.

OFFEROR shall:

(A) Provide a detailed marketing strategy that includes technique and technical tools utilized for creating, implementing, and sustaining an effective communication reach to both the active-duty population and non-active duty population, as well as across the multiple generations each patron population is comprised of, and any unique nuances associated with any of the locations identified within the RFP.

(B) Explain how the OFFEROR's marketing strategy shall focus on 'nutritional quality and appeal' rather than the marketing of 'good foods vs. bad foods' that will effectively inspire Soldiers, and the larger patron community, to make healthier choices while still eating foods they want to eat.

(C) Provide how its marketing strategy shall provide Soldiers with compelling information on initiatives regarding performance, health, and well-being and which marketing vehicles will be utilized to create an effective communications reach to targeted patrons.

(v) **SUB-FACTOR 1.5 - BUILD-OUT / RESTORATION** *(Not to exceed ten (10) Narrative Pages)*.

OFFEROR shall:

(A) Provide general plan/phases and/or checklist for design and retrofit should include a quality control/assurance plan that meets commercial construction standards that supports the completion of project in the most efficient and expeditious manner. Utilizing information provided in Section C.7.1.(d), it should detail target timelines for execution and completion upon issuance of the task order utilizing 120 days from a beginning date of X.

(B) Describe A&E and General Contractor teaming arrangements. Teaming partners and subcontractor personnel shall possess experience described in Section J.16, Construction Guide V3. Contractor's construction personnel shall have a minimum of five (5) years' experience renovating and/or building similar facilities on military bases, CONUS locations preferred.

(C) Provide General Contractor's Experience.

1. Firm's Experience – The Offeror shall furnish information for three (3) projects ("past project") that have been completed in the past five (5) years. Past projects submitted must have a minimum project value of $3,000,000.00. The Offeror shall not submit construction projects that are less than 75% complete, as determined by the amount invoiced against the past project by the submission date of proposals for this solicitation. Each project must include the following information:

2. Project type, name, and location.

3. Owner/Contracting Agency: name, title, street address, email address and telephone number of individuals referenced as primary Point of Contact.

4. Description of Project: The Offeror shall indicate if it completed the past project as a prime contractor or sub-contractor. The Offeror shall specify the past project's project scope, size, primary systems, and features. If applicable, the Offeror shall indicate which elements of work were performed by major

subcontractors and if those same subcontractors will be used on this project. If the Offeror intends to use these subcontractor(s) on the project listed in this solicitation, the Offeror shall list the subcontractor(s) name and principal areas of work the subcontractor(s) will perform. The Offeror shall also indicate if it does not intend to utilize any of these subcontractors.

5. Offeror's Personnel: The Offeror shall provide a list of its key personnel (i.e., Project Manager, Site Superintendent, Quality Control Manager, Site Safety/Health Officer).

6. The Offeror shall address any technical areas it considers uniquely relevant to this project.

(vi) **SUB-FACTOR 1.6 - FACILITY MAINTENANCE** *(Not to exceed ten (10) Narrative Pages)*.

OFFEROR shall:

(A) Provide a detailed plan with checklist and master schedule of the same that includes how the OFFEROR will maintain and repair the permitted facility that coincides with the OFFEROR's responsibilities noted in section C.7 – Facilities. Please note any dependency on external contracted entities versus internal capability.

(B) Provide a detailed plan with checklist of all preventive maintenance activities and a master schedule of the same that includes routine cleaning, lubrication, oiling, grease removal, and other applicable maintenance of all food service GFE (noted in Section J) to include any dependency on external contracted entities versus internal capability.

(vii) **SUB-FACTOR 1.7 – FACILITIES** *(Not to exceed twenty (20) Narrative Pages - items "1", "3", and "4" are excluded from this page limitation).*

OFFERORS shall:

(A) Provide a proposed concept rendering for each location included in this solicitation inclusive of at least the following:

1. Furnishings, color schemes, finishes, colors, textures, and renderings that effectively illustrate the OFFEROR's idea and transformation of taking the facility's existing design, fit, function and ambiance to the new proposed design, fit, function, and ambiance. (Pictures of existing locations and/or internet pictures will not be accepted in place of renderings.)

2. Restaurant brand concepts to be offered within the facility (noting specifically if they are internal or external brands).

3. Sample menu items (without pricing) that accommodate the broad range of consumer preferences.

4. Sample menu items that will be available to the ESM patrons (7 days' worth of breakfast, lunch, and dinner) that adhere to the nutritional guidelines in section C.6.6 – Nutrition and are within the allowable dollar amount per meal and per day as noted in section B.2 – Eligible Patrons.

5. CSDV operational hours that will support the lifestyle, and workstyle needs of the communities per Section C.6.1(a).

6. Provide a proposed implementation plan of how and where the OFFEROR will reach the various portions of post (where the patrons are) with quality food utilizing various "delivery" platforms/options.

(3) **VOLUME III – FACTOR 2 - MANAGEMENT PLAN PROPOSAL**. The OFFEROR's proposal, at a minimum, shall include the sub-part elements listed below. The overall length of the submission shall not exceed the total number of pages in each sub-part elements. Plans, Charts, Exhibits, Drawings, Concepts in each sub-part

elements requested are counted as part of narrative page limitations indicated. NO COST OR PRICE INFORMATION SHALL BE INCLUDED IN THE MANAGEMENT PLAN PROPOSAL.

(i) **SUB-FACTOR 2.1 – MANAGEMENT** *(Not to exceed ten (10) Narrative Pages)*.

OFFEROR shall:

(A) Provide information as to how they would organize and lead this effort through a detailed organizational structure chart.

(B) Describe if the OFFEROR is able to execute the totality of this contract with established internal capability, or if partnerships with other entities are needed (aside from the requirements outlined in Section C.2(e). If partnerships are needed, OFFEROR shall describe those partners, their relationships to the OFFEROR, and their responsibilities to the overall management/execution of an awarded contract.

(C) OFFEROR must describe efforts to partner with AbilityOne entities, the entity(ies) they plan to subcontract with, and the applicable job descriptions and responsibilities the AbilityOne entity(ies) may hold as a part of the overall performance of the resulting contract.

(D) Provide a narrative explaining its effectiveness and authority to institute policies and procedures, resolve issues, and ensure contract compliance throughout the corporate organizational structure to the individual operating locations AND across the OFFEROR's various essential distribution chains.

(ii) **SUB-FACTOR 2.2 – RELEVANT EXPERIENCE AND PAST PERFORMANCE** *(Not to exceed five (5) Narrative Pages)*.

OFFEROR shall:

(A) Provide information that effectively demonstrates experience with food and facility transformation to encompasses all components of the CSDV – food operations, IT, and construction.

(B) Provide information regarding experience with college and university campus dining systems and corporate America in similar size and scope as this RFP and across multiple geographically dispersed locations.

(iii) **SUB-FACTOR 2.3 – MANAGEMENT CONTROLS** *(Not to exceed ten (10) Narrative Pages)*.

(A) Describe the OFFEROR's knowledge and understanding of safe food handling practices and plan to adhere to standards set in US Government Foodservice Sanitation regulations.

(B) Describe the OFFEOR's internal control measures to address loss prevention.

(C) Describe the OFFEROR's employee training program (back and front of the house) and the ability to measure to establish effectiveness within employee performance.

(D) Describe the OFFEROR's skills and competencies, highlighting ability to effectively use analytics, and aggregation of specific data/feedback platforms to complement both a short term and long-term strategy that keeps pace with and anticipates evolving customer needs.

(iv) **SUB-FACTOR 2.4 – CUSTOMER SERVICE** *(Not to exceed five (5) Narrative Pages).*

OFFEROR shall:

Provide a proposed Customer Service Plan that includes, but is not limited to the following:

(A) The detailed description of the OFFEROR's customer service philosophy and program.

(B) Description of customer service standards and training provided to ensure customer satisfaction to include methodology for avoiding complaints, but if they arise the methodology to resolve and mitigate future complaints of a similar nature.

(C) How the unique nature of each of these facilities will be taken into consideration to include the different missions of each garrison and thus how applicable service will be achieved across multiple venues – to include venues that may be automated.

(D) The response time and the resolution time and method for answering customer inquiries/complaints.

L.13 INCURRED COSTS

The NAFI shall not be liable for any costs incurred by the OFFEROR in submitting offers in response to this solicitation.

********** **- END OF SECTION L -** **********

PART IV – REPRESENTATIONS AND INSTRUCTIONS
SECTION M – EVALUATION FACTORS FOR AWARD

M.1 PROPOSAL EVALUATION

(a) A proposal shall be deemed responsive if the proposal is prepared in accordance with Section L.12.2 – Volume Submissions. At the Contracting Officer's discretion proposals deemed to be substantially incomplete in accordance with the requirements of Section L.12.2 – Volume Submissions may not be evaluated further.

(b) The following factors, in descending order of importance, shall be used to evaluate offers:

(1) Technical Proposal (NON-PRICE) Factors/Subfactors:

(i) FACTOR 1 – Business Plan Proposal. This factor is of more important than Factor 2 – Management Plan. All sub-factors below are listed in descending order of importance.

(A) Sub-Factor 1.1 – General Business Operations
(B) Sub-Factor 1.2 – Nutritious Food and Beverage Operations
(C) Sub-Factor 1.3 – Information Technology (IT) Requirements
(D) Sub-Factor 1.4 – Marketing
(E) Sub-Factor 1.5 – Build-out / Restoration
(F) Sub-Factor 1.6 – Facility Maintenance
(G) Sub-Factor 1.7 – Facilities Proposal

(ii) FACTOR 2– Management Plan Proposal. This factor is of less importance than Factor 1 – Business Plan Proposal. All sub-factors below are listed in descending order of importance.

(A) Sub-Factor 2.1 – Management
(B) Sub-Factor 2.2 – Relevant Experience and Past Performance
(C) Sub-Factor 2.3 – Management Controls
(D) Sub-Factor 2.4 – Customer Service

(2) Pricing Proposal

(i) The pricing offered will not be point scored but will be considered less important to the relative merit of the Business Plan Proposal and Management Plan Proposal, when combined, in the selection of the successful OFFEROR.

(c) The NAFI will award a contract resulting from this solicitation to the responsible OFFEROR whose offer conforming to the solicitation will be most advantageous to the NAFI, price and other factors considered utilizing "Best Value-Trade Off". The Fund may consider award to other than the highest revenue fee proposal when the benefits of a lower revenue fee proposal (as determined by the Fund) merits receipt of less revenue to the Fund.

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

M.2 EVALUATION SYSTEM

(a) Proposal Evaluation. The technical and non-technical aspects of each proposal will be evaluated. Price will be evaluated by the Contracting Officer.

(b) Deficient Proposal. A proposal may be determined to be deficient if it materially deviates from the requirements stated in the statement of work and the submittal requirements. Such proposals may not be considered for further evaluation or selection.

(c) Competitive Range. The competitive range is defined as those offers which, following an evaluation of price and other factors, include the most highly rated proposals who have a reasonable chance of award. If award is not made on the basis of initial offers, a competitive range will be established by the Contracting Officer following proposal review.

(d) Discussions. If the Contracting Officer decides to conduct discussions, it provides OFFEORS with the opportunity to revise their offers before contract award. Discussions are tailored to each OFFERORS' proposal. If a competitive range is established, discussions will be conducted with those in the competitive range and at the conclusion of the discussions, OFFERORS still within the competitive range, will be given an opportunity to submit a revised proposal.

M.3 OPENING OF PROPOSALS AND NEGOTIATIONS

No information regarding proposals received will be furnished to any OFFEROR or to any individual without a lawful need to know, prior to completion of evaluation, negotiation, and award of the contracts.

M.4 SELECTION

The Contracting Officer will notify all OFFERORs of contract award. Unsuccessful OFFERORS may request, in writing within three (3) business days of notification, a debriefing by the Contracting Officer.

M.5 AWARD

(a) The FUND may reject any or all offers if such action is in the Fund's interest and may waive informalities and minor irregularities in offers received.

(b) The FUND may award on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the OFFERORS's best terms of technical and price.

(c) The FUND intends to award one firm fixed price IDIQ contract AND one Task Order for location Schofield Barracks, HI from this solicitation.

M.6 OPTION YEARS

The evaluation of option years is for award purposes. Evaluation of option years will not obligate the NAFI to exercise the option years.

********** **- END OF SECTION M -** **********