

<b>SOLICITATION, OFFER, AND AWARD</b> <i>(Construction, Alteration, or Repair)</i>	1. SOLICITATION NO. DE-SOL-0009877	2. TYPE OF SOLICITATION <input checked="" type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 06/01/2016	PAGE OF PAGES 1   40	
	<b>IMPORTANT -- The "offer" section on the reverse must be fully completed by offeror.</b>				

4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO. 16WA117733	6. PROJECT NO.
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7. ISSUED BY WAPA (DSW) US DOE/WESTERN AREA POWER DESERT SOUTHWEST REGIONAL OFFICE PO BOX 6457 PHOENIX AZ 85005-6457	CODE DSW	8. ADDRESS OFFER TO Western Area Power Administration - DSW ATTN: Eric Jordan - DE-SOL-0009877 615 S. 43rd Ave Phoenix, AZ 85009-5313
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9. FOR INFORMATION CALL: 	a. NAME Eric Jordan	b. TELEPHONE NO. (Include area code) (NO COLLECT CALLS) 602-605-2665
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**SOLICITATION**

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

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

GILA-KNOB 230-KV Transmission Line Rebuild, Phase 1 Construction project

This project consists of the removal of existing ACSR conductor, overhead groundwire, and wood pole structures; installation of Government-furnished steel structures and ACCR conductor; and providing ACSS conductor, overhead groundwire, optical fiber overhead groundwire, and insulator assemblies as part of the 230-kV rebuild of the Gila-Knob 161-kV Transmission Line, between Structures 4/7 and 5/2, located near the Arizona Public Service's (APS) North Gila Substation. All work shall be in strict compliance with the specifications and drawings.

The construction magnitude for this project is estimated between \$1,000,000 and \$5,000,000.

This is a competitive 100% Small Business Set-aside Invitation for Bid (IFB). The acquisition is subject to the North American Industry Classification System (NAICS) code of 237130.

11. The Contractor shall begin performance 10 calendar days and complete it within 0 calendar days after receiving clause 52.211-10  award,  notice to proceed. The performance period is  mandatory  negotiable. (See clause 52.211-10.)

12a. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? <i>(If "YES", indicate within how many calendar days after award in Item 12b.)</i>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	12b. CALENDAR DAYS 7
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13. ADDITIONAL SOLICITATION REQUIREMENTS:

a. Sealed offers in original and                      copies to perform the work required are due at the place specified in Item 8 by 1400 (hour) local time 07/06/2016 (date). If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

b. An offer guarantee  is,  is not required.

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

d. Offers providing less than 60 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected .

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

14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)	15. TELEPHONE NO. (Include area code)
	16. REMITTANCE ADDRESS (Include only if different than item 14.)
CODE	FACILITY CODE

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

**AMOUNTS** 

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

**19. ACKNOWLEDGEMENT OF AMENDMENTS**

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

AMENDMENT NO.										
DATE.										

20a. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	20b. SIGNATURE	20c. OFFER DATE
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**AWARD** (To be completed by Government)

21. ITEMS ACCEPTED:

Continued...

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA	
24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO <input type="checkbox"/> 10 U.S.C. 2304(c) ( ) <input type="checkbox"/> 41 U.S.C. 253(c) ( )
26. ADMINISTERED BY WAPA (DSW) US DOE/WESTERN AREA POWER DESERT SOUTHWEST REGIONAL OFFICE PO BOX 6457 PHOENIX AZ 85005-6457	CODE DSW	27. PAYMENT WILL BE MADE BY

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

<input type="checkbox"/> 28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations,	<input type="checkbox"/> 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.
30a. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)	31a. NAME OF CONTRACTING OFFICER (Type or print) Eric W. Jordan
30b. SIGNATURE	30c. DATE
	31b. UNITED STATES OF AMERICA BY
	31c. DATE 06/01/2016

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**Section B - Supplies or Services/Prices**

See Section J

**Section C - Description/Specifications**

See Section J

**Section E - Inspection and Acceptance**

**52.246-12 Inspection of Construction. (APR 1996)**

**DOE-E-2001 Inspection and Acceptance (OCT 2014)**

Inspection and acceptance of all items under this contract shall be accomplished by the Contracting Officer in accordance with the clause entitled 52.246-12, Inspection of Construction. If the Contracting Officer assigns this responsibility to the Contracting Officer's Representative or another representative of the Government, the Contracting Officer shall notify the Contractor in writing.

**Section F - Deliveries or Performance**

**52.211-10 Commencement, Prosecution, and Completion of Work. (APR 1984)**

The Contractor shall be required to (a) commence work under this contract within **10 calendar days** after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than **December 31, 2016**. The time stated for completion shall include final cleanup of the premises.

(End of clause)

**52.211-12 Liquidated Damages - Construction. (SEP 2000)**

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of **\$936.38** for each calendar day of delay until the work is completed or accepted.

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

(End of clause)

**52.242-14 Suspension of Work. (APR 1984)**

**Section G - Contract Administration Data**

**DOE-G-2001 Contracting Officer Authority (OCT 2014)**

The Contracting Officer is responsible for administration of the contract. The Contracting Officer may appoint a Contracting Officer's Representative (COR), in accordance with the clause entitled Contracting Officer's Representative, to perform specifically delegated functions. The Contracting Officer is the only individual who has the authority on behalf of the Government, among other things, to take the following actions under the contract:

- (a) Assign additional work within the general scope of the contract.
- (b) Issue a change in accordance with the clause entitled Changes.
- (c) Change the cost or price of the contract.
- (d) Change any of the terms, conditions, specifications, or services required by the contract.
- (e) Accept non-conforming work.
- (f) Waive any requirement of the contract.

**DOE-G-2002 Contracting Officer’s Representative (OCT 2014)**

Pursuant to the clause at DEAR 952.242-70, Technical Direction, the Contracting Officer shall designate in writing a Contracting Officer’s Representative (COR) for this contract, and provide a copy of such designation to the contractor, including the delegated responsibilities and functions. The COR does not have authority to perform those functions reserved exclusively for the Contracting Officer.

**WES-G-1002 ADMINISTRATIVE TIME FOR COMPLETION OF DRAWINGS (WAPA, JAN 2008)**

- a. The contractor is authorized up to 60 calendar days after the contract completion date to complete and submit final drawings, operation and maintenance manuals, and any other data required by the contract.
- b. This period noted above is strictly for administrative purposes and is not an extension of the actual performance period of the contract. Liquidated damages are not applicable to this period.

**WES-G-1004 CONTRACTOR'S CONTRACT ADMINISTRATION (WAPA, FEB 2008)**

The name, title, phone number, office name, and complete mailing address of the Contractor's point of contact for contract administration, including defective or improper invoices, is as follows:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

**Section H - Special Contract Requirements**

**DOE-H-2012 Sustainable Acquisitions under DOE Construction Contracts (OCT 2014)**

Pursuant to Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, and 13514, Federal Leadership in Environmental, Energy, and Economic Performance, the Department of Energy is committed to managing its facilities in an environmentally preferable manner that

will promote the natural environment and protect the health and well-being of its Federal employees and contractor service providers. In the performance of work under this contract, the Contractor shall exert its best efforts to provide its services in a manner that will promote the natural environment and protect the health and well-being of Federal and contract employees at the facility. Sustainable acquisition or environmentally preferable contracting has several interacting initiatives. Among the initiatives are the following:

- Recycled Content Products are described at <http://epa.gov/cpg>
- Biobased Products are described at <http://www.biopreferred.gov/>
- Energy efficient products are at <http://energystar.gov/products> for Energy Star products
- Energy efficient products are at <http://www.eere.energy.gov/femp/procurement> for FEMP designated products
- Environmentally Preferable Computers are at <http://www.epeat.net>
- Non-Ozone Depleting Alternative Products are at <http://www.epa.gov/ozone/strathome.html>
- Water efficient plumbing products are at <http://epa.gov/watersense>

To the extent that the services provided by the Contractor require provision of any of the above types of products, the Contractor is expected to provide the sustainable, environmentally preferable type of product unless that type of product is not available competitively within a reasonable time, at a reasonable price, is not life cycle cost efficient in the case of energy consuming products, or does not meet reasonable performance standards. The clauses at FAR 52.223-2, Affirmative Procurement of Biobased Products under Service and Construction Contracts, 52.223-15, Energy Efficiency in Energy Consuming Products, and 52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts, in Section I of this contract require the use of products that have biobased content, are energy efficient, or have recycled content.

In case of an apparent inconsistency between this provision and any specification elsewhere in the contract, consult the contracting officer for resolution.

#### **DOE-H-2013 Consecutive Numbering (OCT 2014)**

Due to automated procedures employed in formulating this document, clauses and provisions contained within may not always be consecutively numbered.

(End of clause)

#### **DOE-H-2033 Alternative Dispute Resolution (OCT 2014)**

(a) The DOE and the Contractor both recognize that methods for fair and efficient resolution of contractual issues in controversy by mutual agreement are essential to the successful and timely completion of contract requirements. Accordingly, DOE and the Contractor shall use their best efforts to informally resolve any contractual issue in controversy by mutual agreement. Issues of controversy may include a dispute, claim, question, or other disagreement. The parties agree to negotiate with each other in good faith, recognizing their mutual interests, and attempt to reach a just and equitable solution satisfactory to both parties.

(b) If a mutual agreement cannot be reached through negotiations within a reasonable period of time, the parties may use a process of alternate dispute resolution (ADR) in accordance with the clause at FAR 52.233-1, Disputes. The ADR process may involve mediation, facilitation, fact-finding, group conflict management, and conflict coaching by a neutral party. The neutral party may be an individual, a board comprised of independent experts, or a company with specific expertise in conflict resolution or expertise in the specific area of controversy. The neutral party will not render a binding decision, but will assist the parties in reaching a mutually satisfactory agreement. Any opinions of the neutral party shall not be admissible in evidence in any subsequent litigation proceedings.

(c) Either party may request that the ADR process be used. The Contractor shall make a written

request to the Contracting Officer, and the Contracting Officer shall make a written request to the appropriate official of the Contractor. A voluntary election by both parties is required to participate in the ADR process. The parties must agree on the procedures and terms of the process, and officials of both parties who have the authority to resolve the issue must participate in the agreed upon process.

(d) ADR procedures may be used at any time that the Contracting Officer has the authority to resolve the issue in controversy. If a claim has been submitted by the Contractor, ADR procedures may be applied to all or a portion of the claim. If ADR procedures are used subsequent to issuance of a Contracting Officer's final decision under the clause at FAR 52.233-1, Disputes, their use does not alter any of the time limitations or procedural requirements for filing an appeal of the Contracting Officer's final decision and does not constitute reconsideration of the final decision.

(e) If the Contracting Officer rejects the Contractor's request for ADR proceedings, the Contracting Officer shall provide the Contractor with a written explanation of the specific reasons the ADR process is not appropriate for the resolution of the dispute. If the Contractor rejects the Contracting Officer's request to use ADR procedures, the Contractor shall provide the Contracting Officer with the reasons for rejecting the request.

#### **DOE-H-2034 Contractor Interface With Other Contractors And/Or Government Employees (OCT 2014)**

The Government may award contracts to other contractors for work to be performed at a DOE-owned or –controlled site or facility. The Contractor shall cooperate fully with all other on-site DOE contractors and Government employees. The Contractor shall coordinate its own work with such other work as may be directed by the Contracting Officer or a duly authorized representative. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by a Government employee.

#### **DOE-H-2057 Department Of Labor Wage Determinations (OCT 2014)**

The Contractor's performance under this contract shall comply with the requirements of the U.S. Department of Labor Wage Determination(s) located in Section J, Attachment F.

#### **DOE-H-2059 Preservation Of Antiquities, Wildlife And Land Areas (OCT 2014)**

(a) Federal Law provides for the protection of antiquities located on land owned or controlled by the Government. Antiquities include Indian graves or campsites, relics and artifacts. The Contractor shall control the movements of its personnel and its subcontractor's personnel at the job site to ensure that any existing antiquities discovered thereon will not be disturbed or destroyed by such personnel. It shall be the duty of the Contractor to report to the Contracting Officer the existence of any antiquities so discovered.

(b) The Contractor shall also preserve all vegetation (including wetlands) except where such vegetation must be removed for survey or construction purposes. Any removal of vegetation shall be in accordance with the terms of applicable habitat mitigation plans and permits. Furthermore, all wildlife must be protected consistent with programs approved by the Contracting Officer.

(c) Except as required by or specifically provided for in other provisions of this contract, the Contractor shall not perform any excavations, earth borrow, preparation of borrow areas, or otherwise disturb the surface soils within the job site without the prior approval of DOE or its designee.

#### **WES-H-1002 RETAINAGE/HOLDBACK FOR UNDELIVERED DATA (WAPA, APR 2009)**

The Government may retain/holdback up to 10 percent of the total amount, as shown in schedule B of the contract, and final payment will not be made until all final drawings, as-builts, operation and maintenance manuals, and any other data required under the contract have been delivered to and accepted by the Government.

**WES-H-1006 BREAKDOWN OF CONTRACT PRICES (WAPA, FEB 2008)**

In addition to the requirements of the contract clause entitled "Payments under Fixed Price Construction Contracts", the contractor shall submit a detailed breakdown of the total contract price within 30 calendar days after the date of the notice to proceed. The price breakdown shall be submitted in triplicate to the Contracting Officer's Representative (COR) designated in this contract. The breakdown of contract costs shall be arranged by bid item with a further, more detailed division into the various kinds of work which make up the bid item. Contract costs shall be furnished for each bid item detailing the various kinds of work covered in the technical paragraphs of the specifications. The cost breakdown shall show the quantities of each type of work, the unit prices for materials, labor, and equipment, as well as the total price. The contractor shall obtain cost information from its subcontractor(s) as required, to provide the Government with a complete breakdown of the actual bid price.

**WES-H-1022 INDEMNITY (WAPA, FEB 2008)**

The contractor shall hold harmless and indemnify the United States and its officers, representatives, and employees, from all claims, losses, damages, actions, causes of action, expenses, and/or liability resulting from, brought for, or on account of, any loss, personal injury, death, or property damage, including but not limited to incidents related to the transportation, removal, disposal, and/or accidental discharge of toxic and/or hazardous waste or material, received or sustained by any person or persons, including but not limited to the contractor, the United States, or third parties, and any of their employees, agents, officers, or representatives, to the extent caused by, growing out of, resulting from, incident to, or connected with, the contractor's negligent performance under this contract.

**WES-H-1023 REQUIRED INSURANCE (WAPA, FEB 2008)**

a. The contractor shall procure and maintain during the entire period of his performance under this contract the following minimum insurance:

(1) Workman's Compensation Insurance in accordance with the laws of the state where contract performance occurs; Occupational Disease Coverage; and Employees Liability Coverage.

(2) Comprehensive General and Automobile Liability Insurance with the following minimum coverages:

(i) GENERAL LIABILITY

(A) Bodily Injury \$500,000 per occurrence.

(B) Property Damage \$500,000 each accident;  
\$ 1,000,000 in the aggregate.

(ii) AUTOMOBILE INSURANCE

(A) Bodily Injury, \$200,000 per person;  
\$500,000 per occurrence.

(B) Property Damage, per occurrence: \$20,000.

b. These policies shall have appropriate language waiving all subrogation rights against the Government, unless otherwise approved by the Contracting Officer.

c. Prior to the commencement of work under this contract, the contractor shall furnish a copy of the insurance certificate (binder) or other objective evidence of the above-required insurance to the Contracting Officer. The policies shall contain an endorsement to the effect that cancellation or any material change in the insurance policies that adversely affect the interests of the Government 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 notification is provided to the Contracting Officer.

d. The contractor agrees to insert the substance of this clause, including this paragraph (d), into any subcontracts issued under this contract.

**WES-H-1024 CONTRACT PRICES (WAPA, FEB 2008)**

Payment for the various line items listed in Section B shall constitute full compensation for furnishing all plant, labor, equipment, appliances and materials; for performing all operations required to complete the

work in conformity with the drawings and specifications, including installation and erection of the total system; necessary engineering services; and all drawings, data and/or reports.

**WES-H-1026 PROTECTION AND RESTORATION OF REAL ESTATE CROSSED BY RIGHT-OF-WAY (WAPA, FEB 2008)**

a. General. The contractor shall limit the movement of its crews and equipment to the right-of-way, including access routes. The contractor shall further limit movement on the right-of-way so as to minimize damage to grazing land, crops, orchards, or other real and personal property, and shall avoid marring the land. The contractor shall be responsible for all damages off the right-of-way and shall settle all such damage claims directly with the property owner. Pursuant to FAR 52.236-7 "Permits and Responsibilities," the contractor shall be responsible for all damages that are a result of its fault or negligence.

b. Restoration of Land to Original Conditions. When weather and ground conditions permit, the contractor shall obliterate all contractor caused ruts that are hazardous to farming operations and to movement of equipment. Such ruts shall be leveled, filled, and graded or otherwise eliminated in an approved manner. Ruts, scars, and compacted soils in hay meadows, alfalfa fields, pastures, and cultivated productive lands shall have the soil loosened and leveled by scarifying, harrowing, disking, or other approved methods.

c. Hillside Erosion Prevention. Water turnoff bars or small terraces shall be constructed across all right-of-way trails on hillsides to prevent water erosion and to facilitate natural re-vegetation on the trails.

d. Irrigation Ditches, Drainage Ditches, Terraces, and Title Drains. The contractor shall take measures, especially during the irrigation season, to ensure that its operations do not affect the operation of irrigation and drainage ditches, terraces, and title drains, and ensure that any other irrigation features are adequately protected during contract performance.

e. Resolution of Damage Claims. The contractor shall promptly notify the property owner(s) of any damage caused by the contractor. The contractor, within 60 days of its knowledge of, or notice from, a landowner of damage off the right-of-way caused by the contractor's operations shall notify the Contracting Officer's Representative in writing of the disposition of each claim. In order to adequately protect the Government against landowner claims, demands, or liabilities arising out of the contractor's construction operations under this contract, the Contracting Officer may withhold progress payments, in whole or in part, due the contractor until landowner claims are settled.

**WES-H-1027 MOBILIZATION AND PREPARATORY WORK (WAPA, FEB 2008)**

a. General. The contractor will be compensated for mobilization and preparatory work in accordance with the terms of this contract. Mobilization and preparatory work may include movement of personnel, equipment, supplies, and incidentals to the project site; establishment of offices, buildings, plants and other facilities at the project site; payment of premiums for bonds and insurance for the project; necessary costs for acquisition of equipment; and for any other work which must be performed incident to the start of construction at the site.

b. Facilities, plants, and equipment required for this project that are established at, or brought to, the worksite are subject to the provisions of this clause unless the Contracting Officer specifically excludes, in writing, a particular item or items. The contractor is solely responsible for the adequacy, efficiency, use, protection, maintenance, repair, and preservation of all its facilities, plants, and equipment. The facilities, plants, and equipment covered by this paragraph shall not be dismantled or removed from the worksite prior to completion of the work specified in the contract without the written permission of the Contracting Officer.

c. Termination for Default. In the event the contractor's right to proceed is terminated as provided by the contract clause entitled Default, all facilities, plants, and equipment on the worksite are subject to Western's right to take possession of and utilize the same for completion of the work. In addition, any encumbrance, lien, or other security interest on any such facilities, plants, or equipment shall be subordinate to Western's right to utilize these facilities, plants and equipment to complete the work under the contract.

d. Payment. Payment for mobilization and preparatory work will be made at the lump sum price specified in Section B of the contract. Progress

payments for mobilization and preparatory work will be made as follows:

- (1) When 5 percent of the total amount of the original contract is earned from other schedule items, 50

percent of the amount agreed upon for mobilization and preparatory work will be paid.

(2) When 10 percent of the total amount of the original contract is earned from other schedule items, the balance of the amount agreed upon for mobilization and preparatory work will be paid.

e. Progress payments for mobilization and preparatory work shall be subject to retainage as provided by FAR 52.232-5, "Payments Under Fixed-Price Construction Contracts." In addition, the line item for mobilization and preparatory work will not be considered to be a separate division of the work, completion of which would permit the payment of the complete item price without retention.

#### **WES-H-1031 FOREIGN VISITORS AND CONTRACT EMPLOYEES (WAPA, MAY 2005)**

The Contractor must receive prior, written approval from the appropriate Western Security Manager (WSM) before any non-U.S. Citizens (Foreign Nationals) visit or work at any Western Area Power Administration (Western) facility. The Contractor must certify in writing that:

- 1) each of their employees working under this contract that may visit or be assigned to work at any Western facility is a U.S. Citizen, or;
- 2) the Contractor shall provide an accurately completed Foreign National Data Card, WAPA Form 3000-72, Attachment G for each of their Foreign National employees that may visit or work at any Western facility. The Contractor shall forward the completed Form to the COR at least 45 days in advance of each Foreign National employee's visit or their beginning of work. Foreign National employees shall not be allowed on-site at any Western facility without prior approval of the cognizant WSM. Circumstances which do not allow a 45 day notification require prior, written approval of the cognizant WSM. The Contractor shall include this requirement in any subcontract it issues under this contract. Western reserves the right to remove any contract employee from Western's property pending the conclusion of the Foreign National background check.

#### **WES-H-1033 ACCESS TO DOE OWNED OR LEASED FACILITIES (WAPA, SEP 2011)**

(a) The performance of this contract requires that employees of the Contractor have physical access to DOE owned or leased facilities. The Contractor understands and agrees that DOE has a prescribed process with which the Contractor and its employees must comply in order to receive a security badge that allows such physical access. This process includes, but is not limited to an FBI fingerprint check and other background checks and investigations as required by DOE. The Contractor further understands that it must propose employees whose background offers the best prospect of obtaining a security badge approval for access, considering the following criteria, which are not all inclusive and may vary depending on access requirements:

- (1) is, or is suspected of being, a terrorist;
- (2) is the subject of an outstanding warrant;
- (3) has deliberately omitted, concealed, or falsified relevant and material facts from any Questionnaire for National Security Positions (SF-86), Questionnaire for Non-Sensitive Positions (SF-85), or similar form;
- (4) has presented false or forged identity source documents;
- (5) has been barred from Federal employment;
- (6) is currently awaiting a hearing or trial or has been convicted of a crime punishable by imprisonment of six (6) months or longer; or
- (7) is awaiting or serving a form of pre-prosecution probation, suspended or deferred sentencing, probation or parole in conjunction with an arrest or criminal charges against the individual for a crime that is punishable by imprisonment of six (6) months or longer.

(b) The Contractor shall assure:

(1) In initiating the process for gaining physical access, (i) compliance with procedures established by DOE in providing its employee(s) with any forms directed by DOE, (ii) that the employee properly completes any forms, and (iii) that the employee(s) submits the forms to the person designated by the Contracting Officer.

(2) In completing the process for gaining physical access, that its employee (i) cooperates with DOE officials responsible for granting access to DOE owned or leased facilities and (ii) provides additional information, requested by those DOE officials.

(c) The Contractor understands and agrees that DOE may unilaterally deny a security badge to an

employee and that the denial remains effective for that employee unless DOE subsequently determines that access may be granted. Upon notice from DOE that an employee's application for a security badge is or will be denied, the Contractor shall promptly identify and submit the forms referred to in subparagraph (b)(1) of this clause for the substitute employee. The denial of a security badge to individual employees by DOE shall not be cause for extension of the period of performance of this Contract or any contractor claim against DOE.

(d) The Contractor shall return to the Contracting Officer or designee the badge(s) or other credential(s) provided by DOE pursuant to this clause, granting physical access to DOE owned or leased facilities by the Contractor's employee(s), upon:

- (1) the termination of this Contract;
- (2) the expiration of this Contract;
- (3) the termination of employment on this Contract by an individual employee; or
- (4) demand by DOE for return of the badge.

(e) The Contractor shall include this clause, including this paragraph (e), in any subcontract, awarded in the performance of this Contract, in which an employee(s) of the subcontractor will require physical access to DOE owned or leased facilities.

#### **WES-H-1037 SAFETY AND HEALTH - HIGH RISK (WAPA, MAY 2005)**

In performing the work required by this contract, the Contractor shall comply with all applicable Federal, State, or local safety, health, or industrial safety codes including the latest effective standards promulgated by the Department of Labor, Occupational Safety and Health Administration; Safety and Health Standards 29 CFR 1910, 29 CFR 1925; and the Construction Safety and Health regulations promulgated under Section 107 of the Contract Work Hours and Safety Standards Act, 29 CFR 1926. If there is a conflict between the requirements of the applicable Federal, State, or local safety, health, or industrial safety codes, the more stringent requirements shall prevail. For any cranes used in the performance of this contract, a copy of the crane inspection records shall be furnished to Western's on-site representative prior to the performance of work. The United States is liable only for negligence on the part of its employees in accordance with the Federal Tort Claims Act, as amended.

Prior to starting work, an on-site safety meeting shall be held with Western's representative to address and discuss safety procedures related to the work required.

In addition, the contractor agrees to the following requirements:

1. A hazard evaluation will be developed for each major work component.
2. The Contractor agrees that Western has the right to remove any supervisor that does not adhere to said requirements.

#### **WES-H-1048 LIMITATION OF COSTS RESULTING FROM SUBCONTRACTING PRICE ADJUSTMENTS (WAPA, FEB 2008)**

a. When contract price adjustments are allowed for performance wholly or substantially by subcontractors or suppliers, the Government will reimburse the prime contractor for actual associated indirect costs and profit up to a maximum adjustment of 10% of the total adjustment allowed for the subcontractor or supplier.

b. Where more than one tier of subcontractors or suppliers are involved in contract performance, the total allowance for the prime contractor's indirect cost and profit shall not exceed 10% of the total adjustment allowed for all subcontractors or suppliers who wholly or substantially perform the work.

### **Section I - Contract Clauses**

**52.202-1 Definitions. (NOV 2013)**

**52.203-3 Gratuities. (APR 1984)**

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

**52.203-7 Anti-Kickback Procedures. (MAY 2014)**

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

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

**52.203-12 Limitation on Payments to Influence Certain Federal Transactions. (OCT 2010)**

**52.203-17 Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights. (APR 2014)**

**52.203-99, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements (DEVIATION 2015-02) (FEB 2015)**

(a) The Contractor shall not require employees or subcontractors seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(b) The contractor shall notify employees that the prohibitions and restrictions of any internal confidentiality agreements covered by this clause are no longer in effect.

(c) The prohibition in paragraph (a) of this clause does not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(d)(1) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (Pub. L. 113-235), use of funds appropriated (or otherwise made available) under that or any other Act may be prohibited, if the Government determines that the Contractor is not in compliance with the provisions of this clause.

(2) The Government may seek any available remedies in the event the Contractor fails to comply with the provisions of this clause.

(End of clause)

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

**52.204-13 System for Award Management Maintenance. (JUL 2013)**

**52.204-14 Service Contract Reporting Requirements. (JAN 2014)**

**52.209-6 Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment. (OCT 2015)**

**52.209-9 Updates of Publicly Available Information Regarding Responsibility Matters. (JUL 2013)**

(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the System for Award Management database via <https://www.acquisition.gov>.

(b) As required by section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111-212), all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available. FAPIIS consists of two segments--

(1) The non-public segment, into which Government officials and the Contractor post information, which can only be viewed by--

(i) Government personnel and authorized users performing business on behalf of the Government; or

(ii) The Contractor, when viewing data on itself; and

(2) The publicly-available segment, to which all data in the non-public segment of FAPIIS is automatically transferred after a waiting period of 14 calendar days, except for--

(i) Past performance reviews required by subpart 42.15;

(ii) Information that was entered prior to April 15, 2011; or

(iii) Information that is withdrawn during the 14-calendar-day waiting period by the Government official who posted it in accordance with paragraph (c)(1) of this clause.

(c) The Contractor will receive notification when the Government posts new information to the Contractor's record.

(1) If the Contractor asserts in writing within 7 calendar days, to the Government official who posted the information, that some of the information posted to the non-public segment of FAPIIS is covered by a disclosure exemption under the Freedom of Information Act, the Government official who posted the information must within 7 calendar days remove the posting from FAPIIS and resolve the issue in accordance with agency Freedom of Information procedures, prior to reposting the releasable information. The contractor must cite 52.209-9 and request removal within 7 calendar days of the posting to FAPIIS.

(2) The Contractor will also have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, i.e., for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.

(3) As required by section 3010 of Pub. L. 111-212, all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available.

(d) Public requests for system information posted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

(End of clause)

**52.214-26 Audit and Records - Sealed Bidding. (OCT 2010)**

**52.214-27 Price Reduction for Defective Certified Cost or Pricing Data - Modifications - Sealed Bidding. (AUG 2011)**

**52.214-28 Subcontractor Certified Cost or Pricing Data - Modifications - Sealed Bidding. (OCT 2010)**

**52.214-29 Order of Precedence - Sealed Bidding. (JAN 1986)**

**52.219-6 Notice of Total Small Business Set-Aside. (NOV 2011)**

**52.219-8 Utilization of Small Business Concerns. (OCT 2014)**

**52.219-14 Limitations on Subcontracting. (NOV 2011)**

**52.219-28 Post-Award Small Business Program Rerepresentation. (JUL 2013)**

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

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

*Small business concern* means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

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

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

(3) For long-term contracts-

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

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

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

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

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

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

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

The Contractor represents that it \_\_\_ is, \_\_\_ is not a small business concern under NAICS Code 237130 assigned to contract number to be determined at time of award. (*Contractor to sign and date and insert authorized signer's name and title*).

(End of clause)

**52.222-3 Convict Labor. (JUN 2003)**

**52.222-4 Contract Work Hours and Safety Standards - Overtime Compensation. (MAY 2014)**

**52.222-6 Construction Wage Rate Requirements. (MAY 2014)**

**52.222-7 Withholding of Funds. (MAY 2014)**

**52.222-8 Payrolls and Basic Records. (MAY 2014)**

**52.222-9 Apprentices and Trainees. (JUL 2005)**

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

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

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

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

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

**52.222-15 Certification of Eligibility. (MAY 2014)**

**52.222-21 Prohibition of segregated facilities. (APR 2015)**

**52.222-26 Equal Opportunity. (APR 2015)**

**52.222-27 Affirmative Action Compliance Requirements for Construction. (APR 2015)**

**52.222-35 Equal Opportunity for Veterans. (OCT 2015)**

**52.222-36 Equal Opportunity for Workers with Disabilities. (JUL 2014)**

(a) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, 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)

**52.222-37 Employment Reports on Veterans. (OCT 2015)**

**52.222-50 Combating Trafficking in Persons. (MAR 2015)**

**52.222-54 Employment Eligibility Verification. (OCT 2015)**

**52.222-55 Minimum Wages Under Executive Order 13658. (DEC 2014)**

**52.223-5 Pollution Prevention and Right-to-Know Information. (MAY 2011)**

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

**52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Items. (MAY 2008)**

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

"Postconsumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of "recovered material."

"Recovered material" means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall-

(1) Estimate the percentage of the total recovered material content for EPA-designated item(s) delivered and/or used in contract performance, including, if applicable, the percentage of post-consumer material content; and

(2) Submit this estimate to the Contracting Officer.

(End of clause)

**52.223-14 Acquisition of EPEAT(R)-Registered Televisions. (JUN 2014)**

**52.223-15 Energy Efficiency in Energy-Consuming Products. (DEC 2007)**

**52.223-17 Affirmative Procurement of EPA-designated Items in Service and Construction Contracts. (MAY 2008)**

**52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving. (AUG 2011)**

**52.225-9 Buy American - Construction Materials. (MAY 2014)**

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

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

(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

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

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

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

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

*Cost of components* means-

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

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

*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 nonavailability determinations have been made are treated as domestic; or

(ii) The construction material is a COTS item.

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

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

(b) *Domestic preference.* (1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

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

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

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 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)(3) of this clause shall include adequate information for Government evaluation of the request, including-

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

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

**Foreign and Domestic Construction Materials Price Comparison**

<b>Construction material description</b>	<b>Unit of measure</b>	<b>Quantity</b>	<b>Price (dollars)*</b>
<i>Item 1:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
<i>Item 2:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

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

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

*Include other applicable supporting information.*

(End of clause)

**52.225-13 Restrictions on Certain Foreign Purchases. (JUN 2008)**

**52.227-1 Authorization and Consent. (DEC 2007)**

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

**52.228-1 Bid Guarantee. (SEP 1996)**

(a) Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, *e.g.*, bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds-

(1) To unsuccessful bidders as soon as practicable after the opening of bids; and

(2) To the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

(c) The amount of the bid guarantee shall be 20 percent of the bid price or \$3,000,000.00, whichever is less.

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

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

(End of provision)

**52.228-2 Additional Bond Security. (OCT 1997)**

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

**52.228-11 Pledges of Assets. (JAN 2012)**

**52.228-12 Prospective Subcontractor Requests for Bonds. (MAY 2014)**

**52.228-14 Irrevocable Letter of Credit. (NOV 2014)**

**52.228-15 Performance and Payment Bonds - Construction. (OCT 2010)**

**52.229-3 Federal, State, and Local Taxes. (FEB 2013)**

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

**52.232-17 Interest. (MAY 2014)**

**52.232-23 Assignment of Claims. (MAY 2014)**

**52.232-27 Prompt payment for construction contracts. (MAY 2014)**

**52.232-33 Payment by Electronic Funds Transfer - System for Award Management. (JUL 2013)**

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

- 52.232-40 Providing Accelerated Payments to Small Business Subcontractors. (DEC 2013)**
- 52.233-3 Protest after Award. (AUG 1996)**
- 52.233-4 Applicable Law for Breach of Contract Claim. (OCT 2004)**
- 52.236-2 Differing Site Conditions. (APR 1984)**
- 52.236-3 Site Investigation and Conditions Affecting the Work. (APR 1984)**
- 52.236-5 Material and Workmanship. (APR 1984)**
- 52.236-6 Superintendence by the Contractor. (APR 1984)**
- 52.236-7 Permits and Responsibilities. (NOV 1991)**
- 52.236-8 Other Contracts. (APR 1984)**
- 52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements. (APR 1984)**
- 52.236-10 Operations and Storage Areas. (APR 1984)**
- 52.236-11 Use and Possession Prior to Completion. (APR 1984)**
- 52.236-12 Cleaning Up. (APR 1984)**
- 52.236-13 Accident Prevention. (NOV 1991)**
- 52.236-15 Schedules for Construction Contracts. (APR 1984)**
- 52.236-17 Layout of Work. (APR 1984)**
- 52.236-26 Preconstruction Conference. (FEB 1995)**
- 52.242-13 Bankruptcy. (JUL 1995)**
- 52.243-4 Changes. (JUN 2007)**
- 52.244-6 Subcontracts for Commercial Items. (OCT 2015)**
- 52.246-21 Warranty of Construction. (MAR 1994)**
- 52.248-3 Value Engineering - Construction. (OCT 2015)**
- 52.249-2 Termination for Convenience of the Government (Fixed-Price). (APR 2012)**
- 52.249-10 Default (Fixed-Price Construction). (APR 1984)**
- 52.252-2 Clauses Incorporated by Reference. (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): <http://www.acquisition.gov/far>

**52.252-6 Authorized Deviations in Clauses. (APR 1984)**

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

**52.253-1 Computer Generated Forms. (JAN 1991)**

**952.202-1 Definitions.**

As prescribed in 902.201, insert the clause at 48 CFR 52.202-1, Definitions, in all contracts. The following shall be added to the clause as paragraph (c):

(c) When a solicitation provision or contract clause uses a word or term that is defined in the Department of Energy Acquisition Regulation (DEAR) (48 CFR chapter 9), the word or term has the same meaning as the definition in 48 CFR 902.101 or the definition in the part, subpart, or section of 48 CFR chapter 9 where the provision or clause is prescribed in effect at the time the solicitation was issued, unless an exception in (a) applies.

**Section J - List of Documents, Exhibits and Other Attachments**

<b>Attachment Number</b>	<b>Attachment Title</b>	<b>Number of Pages</b>
A	Bid Schedule	2
B	Specifications	28
C	Drawings	31
D	Submittal Log	4
E	Geotech Data	40
F	Wage Rate	5
G	Foreign National Data Card	2

**Section K - Representations, Certifications, and Other Statements of Bidders**

**52.203-98, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements—Representation (DEVIATION 2015-02) (FEB 2015)**

(a) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (Pub. L. 113-235), Government agencies are not permitted to use funds appropriated (or otherwise made available) under that or any other Act for contracts with an entity that requires employees or subcontractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(b) The prohibition in paragraph (a) of this provision does not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(c) *Representation.* By submission of its offer, the Offeror represents that it does not require employees or subcontractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(End of provision)

**52.204-8 Annual Representations and Certifications. (DEC 2014)**

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 273130.

(2) The small business size standard is \$36.5M.

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

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

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

(i) Paragraph (d) applies.

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

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

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

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

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

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

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

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

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

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

(B) Exceed the simplified acquisition threshold; and

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

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

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

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

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

(ix) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.

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

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

(x) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

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

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

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

(xiv) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

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

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

(xvii) 52.225-4, Buy American-Free Trade Agreements-Israeli Trade Act

Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at 52.225-3.

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$79,507, the provision with its Alternate II applies.

(D) If the acquisition value is \$79,507 or more but is less than \$100,000, the provision with its Alternate III applies.

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

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

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

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

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

(Contracting Officer check as appropriate.)

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

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

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

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

(v) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).

(vi) 52.227-6, Royalty Information.

(A) Basic.

(B) Alternate I.

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

(d) The offeror has completed the annual representations and certifications electronically via the SAM Web site accessed through <https://www.acquisition.gov>. After reviewing the SAM database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in

this offer by reference (see FAR 4.1201); except for the changes identified below (offeror to insert changes, identifying change by clause number, title, date). These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause No.[]

Title[]

Date[]

Change[]

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

(End of provision)

**52.209-5 Certification Regarding Responsibility Matters. (OCT 2015)**

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that-

(i) The Offeror and/or any of its Principals-

(A) Are [] are not [] presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have [] have not [], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks "have", the offeror shall also see 52.209-7, if included in this solicitation);

(C) Are [] are not [] presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision; and

(D) Have [], have not [], within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) The taxpayer is delinquent in making payment. A

taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) Examples. (i) The taxpayer has received a statutory notice of deficiency, under I.R.C. Sec. 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. Sec. 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. Sec. 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(ii) The Offeror has [] has not [], within a 3-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) *Principal*, for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the

Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

**52.209-5 CERTIFICATION REGARDING A FELONY CONVICTION UNDER ANY FEDERAL LAW OR AN UNPAID FEDERAL TAX LIABILITY (APR 2012) DEVATION**

(a) In accordance with sections 504 and 505, Division B, Title V of the Consolidated Appropriations Act, 2012 (Pub.L. 112-74) (the Act), none of the funds made available by the Act may be used to enter into a contract with any corporation that—

(1) Was convicted (or had an officer or agent of such corporation acting on behalf of the corporation convicted) of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation, or such officer or agent, and made a determination that this further action is not necessary to protect the interests of the Government;

(2) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government.

(b) The Offeror certifies that –

(1) It is  is not  a corporation that was convicted (or had an officer or agent of such corporation acting on behalf of the corporation convicted) of a felony criminal violation under any Federal law within the preceding 24 months;

(2) It is  is not  a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

**52.209-7 Information Regarding Responsibility Matters. (JUL 2013)**

(a) Definitions. As used in this provision-

"Administrative proceeding" means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

"Federal contracts and grants with total value greater than \$10,000,000" means-

- (1) The total value of all current, active contracts and grants, including all priced options; and
- (2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

"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).

(b) The offeror  has  does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked "has" in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in-

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management database via <https://www.acquisition.gov> (see 52.204-7).

(End of provision)

**52.222-38 Compliance with Veterans' Employment Reporting Requirements. (SEP 2010)**

**52.223-1 Biobased Product Certification. (MAY 2012)**

**52.223-4 Recovered Material Certification. (MAY 2008)**

**Section L - Instructions, Conditions, and Notices to Bidders**

**52.204-7 System for Award Management. (JUL 2013)**

**52.204-16 Commercial and Government Entity Code Reporting. (JUL 2015)**

**52.204-17 Ownership or Control of Offeror. (NOV 2014)**

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

*Commercial and Government Entity (CAGE) code* means-

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Contractor and Government Entity (CAGE) Branch to identify a commercial or government entity, or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Contractor and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as an NCAGE code.

*Highest-level owner* means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.

*Immediate owner* means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: Ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

(b) The Offeror represents that it  has or  does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (c) and if applicable, paragraph (d) of this provision for each participant in the joint venture.

(c) If the Offeror indicates "has" in paragraph (b) of this provision, enter the following information:

Immediate owner CAGE code:

Immediate owner legal name: [  ](Do not use a "doing business as" name)

Is the immediate owner owned or controlled by another entity?:  Yes or  No.

(d) If the Offeror indicates "yes" in paragraph (c) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest-level owner CAGE code:

Highest-level owner legal name: [ ](*Do not use a "doing business as" name*)

(End of provision)

**52.204-18 Commercial and Government Entity Code Maintenance. (JUL 2015)**

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

**52.214-3 Amendments to Invitations for Bids. (DEC 1989)**

**52.214-4 False Statements in Bids. (APR 1984)**

**52.214-5 Submission of Bids. (MAR 1997)**

**52.214-6 Explanation to Prospective Bidders. (APR 1984)**

**52.214-7 Late Submissions, Modifications, and Withdrawals of Bids. (NOV 1999)**

**52.214-18 Preparation of Bids - Construction. (APR 1984)**

**52.214-34 Submission of Offers in the English Language. (APR 1991)**

**52.214-35 Submission of Offers in U.S. Currency. (APR 1991)**

**52.216-1 Type of Contract. (APR 1984)**

The Government contemplates award of a firm fixed-price contract resulting from this solicitation.

(End of provision)

**52.222-5 Construction Wage Rate Requirements-Secondary Site of the Work. (MAY 2014)**

(a)(1) The offeror shall notify the Government if the offeror intends to perform work at any secondary site of the work, as defined in paragraph (a)(1)(ii) of the FAR clause at 52.222-6, Construction Wage Rate Requirements, of this solicitation.

(2) If the offeror is unsure if a planned work site satisfies the criteria for a secondary site of the work, the offeror shall request a determination from the Contracting Officer.

(b)(1) If the wage determination provided by the Government for work at the primary site of the work is not applicable to the secondary site of the work, the offeror shall request a wage determination from the Contracting Officer.

(2) The due date for receipt of offers will not be extended as a result of an offeror's request for a wage determination for a secondary site of the work.

(End of provision)

**52.222-23 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction. (FEB 1999)**

(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as

follows:

Goals for Minority Participation for Each Trade

19.6%

Goals for Female Participation for Each Trade

6.9%

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the *Federal Register* in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, within 10 working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the-

- (1) Name, address, and telephone number of the subcontractor;
- (2) Employer's identification number of the subcontractor;
- (3) Estimated dollar amount of the subcontract;
- (4) Estimated starting and completion dates of the subcontract; and
- (5) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is Yuma County, Arizona.

(End of provision)

**52.225-10 Notice of Buy American Requirement - Construction Materials. (MAY 2014)**

(a) *Definitions.* "Commercially available off-the-shelf (COTS) item," "construction material," "domestic construction material," and "foreign construction material," as used in this provision, are defined in the clause of this solicitation entitled "Buy American-Construction Materials" (Federal Acquisition Regulation (FAR) clause 52.225-9).

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination

regarding the inapplicability of the Buy American statute should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225-9 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American statute before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers.* (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American statute, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR 52.225-9.

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

(d) *Alternate offers.* (1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR 52.225-9, the offeror also may submit an alternate offer based on use of equivalent domestic construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR 52.225-9 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR 52.225-9 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested-

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

(ii) May be accepted if revised during negotiations.

(End of provision)

**52.233-2 Service of Protest. (SEP 2006)**

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from Western Area Power Administration, Desert Southwest Region, Attn: Contracting Officer, 615 S. 43<sup>rd</sup> Ave, Phoenix, AZ, 85009-5313.

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

**52.252-1 Solicitation Provisions Incorporated by Reference. (FEB 1998)**

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

(End of provision)

**52.252-5 Authorized Deviations in Provisions. (APR 1984)**

(a) The use in this solicitation of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the provision.

(End of provision)

**952.233-2 Service of protest.**

As prescribed in 933.106(a), add the following to the end of the Provision at 48 CFR 52.233-2:

(c) Another copy of a protest filed with the Government Accountability Office shall be furnished to the following address within the time periods described in paragraph (b) of this clause: U.S. Department of Energy, Assistant General Counsel for Procurement and Financial Assistance (GC-61), 1000 Independence Avenue, S.W., Washington, DC 20585, Fax: (202) 586-4546.

(End of provision)

**952.233-4 Notice of protest file availability. (AUG 2009)**

(a) If a protest of this procurement is filed with the Government Accountability Office (GAO) in accordance with 4 CFR Part 21, any actual or prospective offeror may request the Department of Energy to provide it with reasonable access to the protest file pursuant to 48 CFR 33.104(a)(3)(ii), implementing section 1065 of Public Law 103-355. Such request must be in writing and addressed to the Contracting Officer for this procurement.

(b) Any offeror who submits information or documents to the Department for the purpose of competing in this procurement is hereby notified that information or documents it submits may be included in the protest file that will be available to actual or prospective offerors in accordance with the requirements of 48 CFR 33.104(a)(3)(ii). The Department will be required to make such documents available unless they are exempt from disclosure pursuant to the Freedom of Information Act. Therefore, offerors should mark any documents as to which they would assert that an exemption applies. (See 10 CFR part 1004.)

(End of provision)

**952.233-5 Agency protest review. (SEP 1996)**

Protests to the Agency will be decided either at the level of the Head of the Contracting Activity or at the Headquarters level. The Department of Energy's agency protest procedures, set forth in 48 CFR 933.103, elaborate on these options and on the availability of a suspension of a procurement that is protested to the agency. The Department encourages potential protesters to discuss their concerns with the Contracting Officer prior to filing a protest.

(End of provision)

**DOE-L-2015 OFFER ACCEPTANCE PERIOD (OCT 2015)**

The offeror's bid/proposal shall be valid for 60 calendar days after the required due date for bids/proposals.

(End of provision)

**DOE-L-2016 NUMBER OF AWARDS (OCT 2015)**

It is anticipated that there will be one award resulting from this solicitation. However, the Government reserves the right to make any number of awards, or no award, if it is in the Government's best interest to do so.

(End of provision)

**DOE-L-2017 EXPENSES RELATED TO OFFEROR SUBMISSIONS (OCT 2015)**

This solicitation does not commit the Government to pay any costs incurred in the submission of any proposal or bid, or in making necessary studies or designs for the preparation thereof or for acquiring or contracting for any services relating thereto.

(End of provision)

**DOE-L-2019 SITE VISIT (OCT 2015)**

A site visit will be held as indicated below:

TIME: 10:00 AM MST time

DATE: June 09, 2016

PLACE: Gila Substation

ADDRESS:

9600 E. Araby-Blaisdell Rd

Yuma, AZ 85365

(b) No questions will be answered at the site visit. See provision WES-L-1012 for procedures on submitting questions.

(c) Attendance at the site visit is not mandatory. The Government will not reimburse any offeror for expenses related to attendance of this site visit. Due to space limitations, only 3 representatives per potential offeror will be allowed at the site visit. To facilitate the government's planning; please provide the name, organizational affiliation, phone number, e-mail address and citizenship of each proposed attendee via email to [DSW-G5600-CS@wapa.gov](mailto:DSW-G5600-CS@wapa.gov) no later than June 07, 2016. Note that additional information will be required for non-US citizens.

(d) Offerors are urged to attend and inspect the site where services are to be performed and satisfy themselves regarding all general and local conditions that may affect the cost of performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award.

(End of provision)

**DOE-L-2021 GUIDANCE FOR PROSPECTIVE OFFERORS - IMPACT OF TEAMING ARRANGEMENTS ON SMALL BUSINESS STATUS (OCT 2015)**

(a) This procurement has been set aside for small business. In order to ensure that award is made to an eligible small business, prospective offerors, in consultation with legal counsel, are encouraged to review the Small Business Administration's (SBA's) size eligibility standards found at Title 13 of the Code of Federal Regulations, Section 121 (13 C.F.R. § 121). In particular, offerors proposing a joint venture,

subcontracting, or another form of teaming arrangement shall review 13 C.F.R. § 121.103, "How does SBA determine affiliation?" prior to submitting a proposal.

(b) The SBA is the sole authority for making determinations of small business status for small business programs. Such determinations are binding on the offeror and the Contracting Officer. Accordingly, a finding by the SBA of affiliation between an offeror and its proposed team member(s) or subcontractor(s) may result in the offeror being found to be other than a small business and therefore ineligible for contract award.

(End of provision)

**DOE-L-2022 ALTERNATE BID/PROPOSAL INFORMATION – NONE (OCT 2015)**

Alternate bids/proposals are not solicited, are not desired, and will not be evaluated.

(End of provision)

**DOE-L-2026 SERVICE OF PROTEST (OCT 2015)**

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgement of receipt from :

Western Area Power Administration – Desert Southwest Region  
Attn: Susan Ethridge  
615 S. 43rd Ave  
Phoenix, AZ 85009

(b) The copy of any protest must be received in the office designated above within one day of filing a protest with the GAO.

(c) Another copy of a protest filed with the GAO must be furnished to the following address within the time periods described in paragraph (b) of this clause:

U.S. Department of Energy  
Assistant General Counsel for Procurement and Financial Assistance (GC-61)  
1000 Independence Avenue, S.W.  
Washington, DC 20585

Fax: (202) 586-4546

**DOE-L-2027 NOTICE OF PROTEST FILE AVAILABILITY (OCT 2015)**

(a) If a protest of this procurement is filed with the Government Accountability Office (GAO) in accordance with 4 CFR part 21, any actual or prospective offeror may request the Department of Energy to provide it with reasonable access to the protest file pursuant to 48 CFR 33.104(a)(3)(ii), implementing section 1605 of Public Law 103-355. Such request must be in writing and addressed to the Contracting Officer for this procurement.

(b) Any offeror who submits information or documents to the Department for the purpose of competing in this procurement is hereby notified that information or documents it submits may be included in the protest file that will be available to actual or prospective offerors in accordance with the requirements of 48 CFR 33.2014(a)(3)(ii). The Department will be required to make such documents available unless they are exempt from disclosure pursuant to the Freedom of Information Act. Therefore, offerors shall mark any documents as to which they would assert that an exemption applies. (See 10 CFR part 1004.)

## **DOE-L-2028 AGENCY PROTEST REVIEW (OCT 2015)**

Protests to the agency will be decided either at the level of the Head of the Contracting Activity or at the Headquarters level. The Department of Energy's agency protest procedures, set forth at 48 CFR 933.103, elaborate on these options and on the availability of a suspension of a procurement that is protested to the Department. The Department encourages potential protestors to discuss their concerns with the Contracting Officer prior to filing a protest.

## **WES-L-1005 MAILED OR HANDCARRIED BID/PROPOSAL (WAPA, FEB 1997)**

- a. Mailed bids via USPS shall be sent to the address listed in Block 7 of the SF1442. Mailed bids via FEDEX or UPS shall be sent to the address listed in Block 8 of the SF1442
- b. Hand carried bids shall be brought to the address listed in Block 8 of the SF1442.
- c. Bidders shall place the following information on the outside of the envelope containing their submission:

Sealed Bid (IFB): DO NOT OPEN  
Solicitation No.: DE-SOL-0009877  
Due Date: 7/06/2016  
Time: 2:00pm MST

## **WES-L-1012 QUESTIONS CONCERNING THE SOLICITATION (WAPA, MAR 2002)**

- a. Any questions concerning this solicitation **MUST be submitted in writing** and received in the contracting office NO LATER THAN **June 17, 2016**. Questions received after this date may or may not be addressed, at the discretion of the Contracting Officer. Questions must be sent to the following email address: [ejordan@wapa.gov](mailto:ejordan@wapa.gov).
- b. Each question should clearly specify the IFB area to which it refers. All questions answered will be provided to all prospective bidders through a solicitation amendment posted on the Internet at the web page address (URL) of: [www.fbo.gov](http://www.fbo.gov). The identity of the prospective bidders asking questions will be withheld.

### **Section M - Evaluation Factors for Award**

## **52.214-19 Contract Award - Sealed Bidding - Construction. (AUG 1996)**

### **WES-M-1002 Award on an all or None Basis (WAPA, NOV 1995)**

Failure to bid on all the items in the solicitation will render your bid nonresponsive. The award resulting from this solicitation will be on an "all or nothing basis." Only one award will be made from this solicitation.

### **WES-M-1008 Unbalanced Bids (WAPA, NOV 1999)**

The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the overall lowest cost to the Government even though it may be the low evaluated bid, or it is so unbalanced as to be tantamount to allowing an advance payment. For the purposes of providing for expenses incident to the initiation of construction and to discourage unbalanced bidding, the price for bid item number 0001, Mobilization and Preparatory Work, shall not exceed five (5) percent of the total for the schedule. IF IT EXCEEDS five (5) PERCENT, THE BID WILL BE REJECTED AS NON-RESPONSIVE.