

# RECLAMATION

*Managing Water in the West*

## **NGWSP BLOCK 9 THROUGH 11**

### **NAVAJO GALLUP WATER SUPPLY PROJECT**

**SOLICITATION No. R17PS00812**

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
UPPER COLORADO REGION  
SALT LAKE CITY, UTAH**

***ALL OFFERS MUST BE CLEARLY IDENTIFIED AS  
“PROPOSAL” TO PRECLUDE MISHANDLING***

OFFERS **MUST** BE DELIVERED TO:

**BUREAU OF RECLAMATION  
ATTN: Ms. MONICA BURGIO, UC-863  
125 SOUTH STATE STREET, ROOM 8100  
SALT LAKE CITY, UT 84138**

**PRIOR** TO SOLICITATION CLOSING DATE AND TIME OF:

**AUGUST 1, 2017, 3:00 P.M. LOCAL TIME (MDT)**

INQUIRIES REGARDING THIS SOLICITATION SHOULD BE  
MADE TO THE CONTACT LISTED BELOW:

MONICA BURGIO, CONTRACT SPECIALIST  
[mburgio@usbr.gov](mailto:mburgio@usbr.gov)  
(801) 524-3780

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**SECTION A – SF-1442**

<b>SOLICITATION, OFFER, AND AWARD</b> <i>(Construction, Alteration, or Repair)</i>	1. SOLICITATION NO. R17PS00812	2. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 06/29/2017	PAGE OF PAGES 1   71	
	<b>IMPORTANT -- The "offer" section on the reverse must be fully completed by offeror.</b>				

4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO. 0040322550	6. PROJECT NO.
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7. ISSUED BY Bureau of Reclamation Upper Colorado Region Regional Office 125 South State Street, Room 8100 Salt Lake City UT 84138	CODE R40	8. ADDRESS OFFER TO
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9. FOR INFORMATION CALL: 	a. NAME Monica Burgio	b. TELEPHONE NO. (Include area code) (NO COLLECT CALLS) 801-524-3780
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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)

NGWSP Block 9 through 11

Please see Section J for the Specifications and Drawings

11. The Contractor shall begin performance <u>10</u> calendar days and complete it within <u>800</u> calendar days after receiving <input type="checkbox"/> award, <input checked="" type="checkbox"/> notice to proceed. The performance period is <input checked="" type="checkbox"/> mandatory <input type="checkbox"/> negotiable. (See _____.)
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12a. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES", indicate within how many calendar days after award in Item 12b.) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	12b. CALENDAR DAYS 10
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13. ADDITIONAL SOLICITATION REQUIREMENTS:

a. Sealed offers in original and 5 copies to perform the work required are due at the place specified in Item 8 by 1500 (hour) local time 08/01/2017 (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 <span style="float: right;">FACILITY CODE</span>	

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 <i>(4 copies unless otherwise specified)</i>		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 Bureau of Reclamation Upper Colorado Region Regional Office 125 South State Street, Room 8100 Salt Lake City UT 84138	CODE <b>R40</b>	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 <u>5</u> 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.
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30a. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)	31a. NAME OF CONTRACTING OFFICER (Type or print) <b>Michael Verbitski</b>		
30b. SIGNATURE	30c. DATE	31b. UNITED STATES OF AMERICA	31c. DATE
		BY	

**CONTINUATION SHEET**

REFERENCE NO. OF DOCUMENT BEING CONTINUED  
R17PS00812

PAGE 3 OF 71

NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	The estimated magnitude of this construction project is between \$50,000,000 to \$100,000,000 FOB: Destination				
00010	NGWSP Block 9 through 11  (Price Schedule 1, CLINS 1-96)  See following continuation page(s).				
00020	NGWSP Block 9 through 11  (Price Schedule 2, CLINS 1-22)  See following continuation page(s).				
00030	NGWSP Block 9 through 11  (Price Schedule 3, CLINS 1-34)  See following continuation page(s).				

**CONTINUATION OF  
SECTION B - SUPPLIES OR SERVICES AND PRICE**

**B.1 PRICE SCHEDULES**

- (a) Offers will be considered for award on the Price Schedules 1, 2 and 3, but no offer will be considered for award on only part of the Price Schedules.
- (1) Offerors shall complete Price Schedules 1, 2 and 3. Offers for less than the total of Price Schedules 1, 2 and 3 will be considered nonresponsive and will not be evaluated for award.
- (2) Offers will be evaluated based on the total of Price Schedules 1, 2 and 3.
- (b) Offers are subject to the terms and conditions of this solicitation.
- (c) Quantities in the Price Schedules are estimated quantities for comparison of offers only and except as provided in the contract clause at FAR 52.211-18, Variation in Estimated Quantity, no claim shall be made against Government for overruns or underruns. The contract clause at FAR 52.211-18, Variation in Estimated Quantity does not apply to lump sum items.
- (d) See contract clause at WBR 1452.232-81, Payment for Mobilization and Preparatory Work, for CLIN 1 of Price Schedules 1, 2 and 3.
- (e) Definitions:
- (1) CLIN - Contract Line Item Number.

PRICE SCHEDULE 1 (Reach 9)

CLIN	Section	Supplies or Services	Quantity and Unit	Unit Price	Amount
1	WBR 1452.232.81	Mobilization and Preparatory Work	For the lump sum of		\$
2	01 31 30	Contract Document Management System	For the lump sum of		\$
3	01 56 15	Utility Crossing Investigation	For the lump sum of		\$
4	02 82 20	Pipe Removal and Disposal of Asbestos Containing Materials	10,000 lin. ft.	\$	\$



## PRICE SCHEDULE 1 (Reach 9)

CLIN	Section	Supplies or Services	Quantity and Unit	Unit Price	Amount
5	26 42 10	Cathodic Protection and Corrosion Monitoring Systems	For the lump sum of		\$
6	31 02 10	Water for Dust Abatement	11,500 MGal	\$	\$
7	31 02 30	Dust Palliative	For the lump sum of		\$
8	31 11 00	Clearing and Grubbing	For the lump sum of		\$
9	31 14 10	Stripping, Stockpiling and Placement	For the lump sum of		\$
10	31 23 22	Excavation for Pipe Trenches	310,000 yd <sup>3</sup>	\$	\$
11	31 23 22	Rock Excavation for Pipe Trenches	29,000 yd <sup>3</sup>	\$	\$
12	31 23 22	Embedment in Pipe Trenches	28,800 yd <sup>3</sup>	\$	\$
13	31 23 22	Backfill for Pipe Trenches	203,000yd <sup>3</sup>	\$	\$
14	32 15 10	Gravel Surfacing	3,460 ton	\$	\$
15	32 91 60	Erosion Control Blanket	11,500 yd <sup>2</sup>	\$	\$
16	33 05 21	Bored Road Crossing Gas Plant Road	90 lin. ft.	\$	\$
17	33 05 21	Bored Gas Line Crossings	285 lin. ft.	\$	\$
18	33 11 10	Line Pipe 42B100	1,500 lin. ft.	\$	\$
19	33 11 10	Line Pipe 42B125	3,830 lin. ft.	\$	\$
20	33 11 10	Line Pipe 42C125	170 lin. ft.	\$	\$
21	33 11 10	Line Pipe 42B150	2,700 lin. ft.	\$	\$
22	33 11 10	Line Pipe 42B175	3,600 lin. ft.	\$	\$

## PRICE SCHEDULE 1 (Reach 9)

CLIN	Section	Supplies or Services	Quantity and Unit	Unit Price	Amount
23	33 11 10	Line Pipe 42D175	400 lin. ft.	\$	\$
24	33 11 10	Line Pipe 42B200	2,300 lin. ft.	\$	\$
25	33 11 10	Line Pipe 42B225	2,500 lin. ft.	\$	\$
26	33 11 10	Line Pipe 42B250	8,000 lin. ft.	\$	\$
27	33 11 10	Line Pipe 42B275	5,700 lin. ft.	\$	\$
28	33 11 10	Line Pipe 42B300	3,400 lin. ft.	\$	\$
29	33 11 10	Line Pipe 48B300	1,300 lin. ft.	\$	\$
30	33 11 10	Line Pipe 48B325	13,980 lin. ft.	\$	\$
31	33 11 10	Line Pipe 48C325	220 lin. ft.	\$	\$
32	33 11 10	Line Pipe 48B350	2,700 lin. ft.	\$	\$
33	33 11 10	Line Pipe 48B375	12,843 lin. ft.	\$	\$
34	33 11 10	Line Pipe 48C375	1,250 lin. ft.	\$	\$
35	33 11 10	Line Pipe 48B400	6,765 lin. ft.	\$	\$
36	33 11 10	Line Pipe 48K400	241 lin. ft.	\$	\$
37	33 11 10	Line Pipe 48B425	300 lin. ft.	\$	\$
38	33 11 10	Line Pipe 48C425	200 lin. ft.	\$	\$
39	33 11 10	Line Pipe 48K425	100 lin. ft.	\$	\$
40	33 11 10	Line Pipe 48B450	3,000 lin. ft.	\$	\$
41	33 11 10	Line Pipe 48D450	200 lin. ft.	\$	\$

## PRICE SCHEDULE 1 (Reach 9)

CLIN	Section	Supplies or Services	Quantity and Unit	Unit Price	Amount
42	33 11 10	Line Pipe 48B475	3,360 lin. ft.	\$	\$
43	33 11 10	Line Pipe 48C475	100 lin. ft.	\$	\$
44	33 11 10	Line Pipe 48D475	420 lin. ft.	\$	\$
45	33 11 10	Line Pipe 48K475	120 lin. ft.	\$	\$
46	33 11 10	Line Pipe 48B500	17,738 lin. ft.	\$	\$
47	33 11 10	Line Pipe 48C500	1,300 lin. ft.	\$	\$
48	33 11 10	Line Pipe 48D500	480 lin. ft.	\$	\$
49	33 11 10	Line Pipe 48K500	120 lin. ft.	\$	\$
50	33 11 10	Line Pipe 48B525	2,400 lin. ft.	\$	\$
51	33 11 10	Line Pipe 48D525	210 lin. ft.	\$	\$
52	33 11 10	Line Pipe 48K525	50 lin. ft.	\$	\$
53	33 11 10	Line Pipe 48B550	1,000 lin. ft.	\$	\$
54	33 11 10	Line Pipe 48B575	2,760 lin. ft.	\$	\$
55	33 11 10	Line Pipe 48C575	400 lin. ft.	\$	\$
56	33 11 10	Line Pipe 48B600	2,600 lin. ft.	\$	\$
57	33 11 10	Line Pipe 48D600	440 lin. ft.	\$	\$
58	33 11 10	Line Pipe 48K600	100 lin. ft.	\$	\$
59	33 11 10	Line Pipe 48B625	5,172 lin. ft.	\$	\$
60	33 11 10	Line Pipe 48C625	200 lin. ft.	\$	\$

## PRICE SCHEDULE 1 (Reach 9)

CLIN	Section	Supplies or Services	Quantity and Unit	Unit Price	Amount
61	33 11 10	Line Pipe 48B650	4,200 lin. ft.	\$	\$
62	33 11 10	Line Pipe 48C650	300 lin. ft.	\$	\$
63	33 11 10	Line Pipe 48D650	955 lin. ft.	\$	\$
64	33 11 10	Filling and Testing Pipe	For the lump sum of		\$
65	33 11 10	Repair Kits	For the lump sum of		\$
66	33 22 15	42-Inch Sectionalizing Valve Assemblies – Class 150	7 ea.	\$	\$
67	33 22 15	48-Inch Sectionalizing Valve Assemblies – Class 150	2 ea.	\$	\$
68	33 22 15	48-Inch Sectionalizing Valve Assemblies – Class 250	12 ea.	\$	\$
69	33 22 15	48-Inch Sectionalizing Valve Assemblies – Class 350	3 ea.	\$	\$
70	33 22 15	Six Inch Diameter Air Valve Assemblies – 150 lb	3 ea.	\$	\$
71	33 22 15	Six Inch Diameter Air Valve Assemblies – 300 lb	13 ea.	\$	\$
72	33 22 15	Six Inch Diameter Air Valve with Manhole Assemblies – 150 lb	10 ea.	\$	\$
73	33 22 15	Six Inch Diameter Air Valve with Manhole Assemblies – 300 lb	28 ea.	\$	\$
74	33 22 15	Six Inch Diameter Blowoff Assemblies – 300 lb	9 ea.	\$	\$
75	33 22 15	Six Inch Diameter Blowoff with Manhole Assemblies – 150 lb	12 ea.	\$	\$
76	33 22 15	Six Inch Diameter Blowoff with Manhole Assemblies – 300 lb	25 ea.	\$	\$
77	33 22 15	24-Inch Buried Manhole Assemblies – 150 lb	12 ea.	\$	\$
78	33 22 15	24-Inch Buried Manhole Assemblies – 300 lb	3 ea.	\$	\$

## PRICE SCHEDULE 1 (Reach 9)

CLIN	Section	Supplies or Services	Quantity and Unit	Unit Price	Amount
79	35 42 35	Wash Crossing 90023+26		For the lump sum of	\$
80	35 42 35	Wash Crossing 90077+09		For the lump sum of	\$
81	35 42 35	Wash Crossing 90097+40		For the lump sum of	\$
82	35 42 35	Wash Crossing 90106+05		For the lump sum of	\$
83	35 42 35	Wash Crossing 90124+68		For the lump sum of	\$
84	35 42 35	Wash Crossing 90163+39		For the lump sum of	\$
85	35 42 35	Wash Crossing 90261+28		For the lump sum of	\$
86	35 42 35	Wash Crossing 90283+24		For the lump sum of	\$
87	35 42 35	Wash Crossing 90298+25		For the lump sum of	\$
88	35 42 35	Wash Crossing 90376+25		For the lump sum of	\$
89	35 42 35	Wash Crossing 90389+71		For the lump sum of	\$
90	35 42 35	Wash Crossing 90401+39		For the lump sum of	\$
91	35 42 35	Wash Crossing 90465+63		For the lump sum of	\$
92	35 42 35	Wash Crossing 90579+06		For the lump sum of	\$
93	35 42 35	Wash Crossing 90609+15		For the lump sum of	\$
94	35 42 35	Wash Crossing 90628+16		For the lump sum of	\$
95	35 42 35	Wash Crossing 90833+35		For the lump sum of	\$
96	35 42 35	Wash Crossing 91186+26		For the lump sum of	\$

**TOTAL FOR PRICE SCHEDULE 1 (Reach 9) \$ \_\_\_\_\_**

PRICE SCHEDULE 2 (Reach 10)

CLIN	Section	Supplies or Services	Quantity and Unit	Unit Price	Amount
1	WBR 1452.232.81	Mobilization and Preparatory Work	For the lump sum of		\$
2	01 56 15	Utility Crossing Investigation	For the lump sum of		\$
3	26 42 10	Cathodic Protection and Corrosion Monitoring Systems	For the lump sum of		\$
4	31 02 10	Water for Dust Abatement	450 MGal	\$	\$
5	31 02 30	Dust Palliative	For the lump sum of		\$
6	31 11 00	Clearing and Grubbing	For the lump sum of		\$
7	31 14 10	Stripping, Stockpiling and Placement	For the lump sum of		\$
8	31 23 22	Excavation for Pipe Trenches	11,800 yd <sup>3</sup>	\$	\$
9	31 23 22	Rock Excavation for Pipe Trenches	1,500 yd <sup>3</sup>	\$	\$
10	31 23 22	Embedment in Pipe Trenches	1,000 yd <sup>3</sup>	\$	\$
11	31 23 22	Backfill for Pipe Trenches	8,800 yd <sup>3</sup>	\$	\$
12	33 11 10	Line Pipe 42B50	657 lin. ft.	\$	\$
13	33 11 10	Line Pipe 42B75	1,000 lin. ft.	\$	\$
14	33 11 10	Line Pipe 42C75	500 lin. ft.	\$	\$
15	33 11 10	Line Pipe 42D75	200 lin. ft.	\$	\$
16	33 11 10	Line Pipe 42B100	2,342 lin. ft.	\$	\$

## PRICE SCHEDULE 2 (Reach 10)

CLIN	Section	Supplies or Services	Quantity and Unit	Unit Price	Amount
17	33 11 10	Temporary Construction Line	For the lump sum of		\$
18	33 11 10	Filling and Testing Pipe	For the lump sum of		\$
19	33 11 10	Repair Kits	For the lump sum of		\$
20	33 22 15	Six Inch Diameter Air Valve with Manhole Assemblies – 150 lb	2 ea.	\$	\$
21	33 22 15	Six Inch Diameter Blowoff with Manhole Assemblies – 150 lb	1 ea.	\$	\$
22	33 22 15	24-Inch Buried Manhole Assemblies – 150 lb	1 ea.	\$	\$

**TOTAL FOR PRICE SCHEDULE 2 (Reach 10) \$ \_\_\_\_\_**

## PRICE SCHEDULE 3 (Reach 11)

CLIN	Section	Supplies or Services	Quantity and Unit	Unit Price	Amount
1	WBR 1452.232.81	Mobilization and Preparatory Work	For the lump sum of		\$
2	01 56 15	Utility Crossing Investigation	For the lump sum of		\$
3	26 42 10	Cathodic Protection and Corrosion Monitoring Systems	For the lump sum of		\$
4	31 02 10	Water for Dust Abatement	2,100 MGal	\$	\$
5	31 02 30	Dust Palliative	For the lump sum of		\$
6	31 11 00	Clearing and Grubbing	For the lump sum of		\$

## PRICE SCHEDULE 3 (Reach 11)

CLIN	Section	Supplies or Services	Quantity and Unit	Unit Price	Amount
7	31 14 10	Stripping, Stockpiling and Placement	For the lump sum of		\$
8	31 23 22	Excavation for Pipe Trenches	49,200 yd <sup>3</sup>	\$	\$
9	31 23 22	Rock Excavation for Pipe Trenches	3,200 yd <sup>3</sup>	\$	\$
10	31 23 22	Embedment in Pipe Trenches	4,750 yd <sup>3</sup>	\$	\$
11	31 23 22	Backfill for Pipe Trenches	32,000 yd <sup>3</sup>	\$	\$
12	32 15 10	Gravel Surfacing	510 tons	\$	\$
13	32 91 60	Erosion Control Blanket	1,000 yd <sup>2</sup>	\$	\$
14	33 05 21	Bored Road Crossing; BIA Road 9	450 lin. ft.	\$	\$
15	33 11 10	Line Pipe 42B475	1,780 lin. ft.	\$	\$
16	33 11 10	Line Pipe 42B500	700 lin. ft.	\$	\$
17	33 11 10	Line Pipe 42B525	2,100 lin. ft.	\$	\$
18	33 11 10	Line Pipe 42B550	1,100 lin. ft.	\$	\$
19	33 11 10	Line Pipe 42B575	4,300 lin. ft.	\$	\$
20	33 11 10	Line Pipe 42B600	2,500 lin. ft.	\$	\$
21	33 11 10	Line Pipe 42K600	200 lin. ft.	\$	\$
22	33 11 10	Line Pipe 42B625	2,300 lin. ft.	\$	\$
23	33 11 10	Line Pipe 42B650	6,200 lin. ft.	\$	\$
24	33 11 10	Line Pipe 42B675	600 lin. ft.	\$	\$
25	33 11 10	Line Pipe 42B700	400 lin. ft.	\$	\$



PRICE SCHEDULE 3 (Reach 11)

CLIN	Section	Supplies or Services	Quantity and Unit	Unit Price	Amount
26	33 11 10	Filling and Testing Pipe	For the lump sum of		\$
27	33 11 10	Repair Kits	For the lump sum of		\$
28	33 22 15	42-Inch Sectionalizing Valve Assemblies – Class 350	2 ea.	\$	\$
29	33 22 15	Six Inch Diameter Air Valve Assemblies – 300 lb	2 ea.	\$	\$
30	33 22 15	Six Inch Diameter Air Valve with Manhole Assemblies – 300 lb	5 ea.	\$	\$
31	33 22 15	Six Inch Diameter Blowoff Assemblies – 300 lb	2 ea.	\$	\$
32	33 22 15	Six Inch Diameter Blowoff with Manhole Assemblies – 300 lb	4 ea.	\$	\$
33	33 22 15	24-Inch Buried Manhole Assemblies	6 ea.	\$	\$
34	35 42 35	Wash Crossing 11167+00	For the lump sum of		\$

**TOTAL FOR PRICE SCHEDULE 3 (Reach 11) \$ \_\_\_\_\_**

**TOTAL FOR PRICE SCHEDULES 1, 2 and 3 \$ \_\_\_\_\_**

**END OF SUPPLIES OR SERVICES AND PRICES**

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**SECTION C – STATEMENT/DESCRIPTION/SPECIFICATION OF WORK**

**PLEASE SEE SECTION J, ATTACHMENT 1 (SPECIFICATIONS)**

**SECTION D – PACKAGING AND MARKING**

**THERE ARE NO CLAUSES INCLUDED IN THIS SECTION.**

## SECTION E – INSPECTION AND ACCEPTANCE

### E.1 52.246-12 INSPECTION OF CONSTRUCTION

AUG 1996

- (a) Definition - “Work” includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.
- (b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.
- (c) Government inspections and tests are for the sole benefit of the Government and do not –
- (1) Relieve the Contractor of responsibility for providing adequate quality control measures;
  - (2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;
  - (3) Constitute or imply acceptance; or
  - (4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph (i) of this section.
- (d) The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer’s written authorization.
- (e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size and performance tests shall be performed as described in the contract.
- (f) The Contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (g) If the Contractor does not promptly replace or correct rejected work, the Government may –
- (1) By contract or otherwise, replace or correct the work and charge the cost to the Contractor; or
  - (2) Terminate for default the Contractor’s right to proceed.
- (h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.
- (i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government’s rights under any warranty or guarantee.

## SECTION F – DELIVERIES OR PERFORMANCE

### F.1 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:

- 1) Notice to Proceed for non-site work under this contract,
- 2) Notice to Proceed for site work on Reach 10 (Station 10003+58.44 to Station 10050+57 and the Temporary 6-Inch Construction Water Line), and Reach 11 (Station 11058+00 to Station 11279+80), which is anticipated to be issued no later than November 1, 2017, and
- 3) Notice to Proceed for site work on Reach 9 (Station 90000+00 to Station 91220+00), which is anticipated to be issued no later than March 5, 2018.

(b) prosecute the work diligently, and

(c) complete the entire work ready for use not later than **800** calendar days after the contractor receives the initial non-site work Notice to Proceed issued in accordance with (a)(1) above. The time stated for completion shall include final cleanup of the premises.

### F.2 52.211-12 LIQUIDATED DAMAGES – CONSTRUCTION SEPT 2000

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of **\$6,698.00** 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.

### F.3 52.211-18 VARIATION IN ESTIMATED QUANTITY APR 1984

If the quantity of a unit-priced item in this contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Contracting Officer within 10 days from the beginning of the delay, or within such further period as may be granted by the Contracting Officer before the date of final settlement of the contract. Upon the receipt of a written request for an extension, the Contracting Officer shall ascertain the facts and make an adjustment for extending the completion date as, in the judgment of the Contracting Officer, is justified.

### F.4 52.242-14 SUSPENSION OF WORK APR 1984

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

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted

- (1) by an act of the Contracting Officer in the administration of this contract, or
  - (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.
- (c) A claim under this clause shall not be allowed --
- (1) For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and
  - (2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

**SECTION G – CONTRACT ADMINISTRATION DATA****G.1 1452.201-70 AUTHORITIES AND DELEGATIONS****SEPT 2011**

(a) The Contracting Officer is the only individual authorized to enter into or terminate this contract, modify any term or condition of this contract, waive any requirement of this contract, or accept nonconforming work.

(b) The Contracting Officer will designate a Contracting Officer's Representative (COR) at time of award. The COR will be responsible for technical monitoring of the contractor's performance and deliveries. The COR will be appointed in writing, and a copy of the appointment will be furnished to the Contractor. Changes to this delegation will be made by written changes to the existing appointment or by issuance of a new appointment.

(c) The COR is not authorized to perform, formally or informally, any of the following actions:

(1) Promise, award, agree to award, or execute any contract, contract modification, or notice of intent that changes or may change this contract;

(2) Waive or agree to modification of the delivery schedule;

(3) Make any final decision on any contract matter subject to the Disputes Clause;

(4) Terminate, for any reason, the Contractor's right to proceed;

(5) Obligate in any way, the payment of money by the Government.

(d) The Contractor shall comply with the written or oral direction of the Contracting Officer or authorized representative(s) acting within the scope and authority of the appointment memorandum. The Contractor need not proceed with direction that it considers to have been issued without proper authority. The Contractor shall notify the Contracting Officer in writing, with as much detail as possible, when the COR has taken an action or has issued direction (written or oral) that the Contractor considers to exceed the COR's appointment, within 3 days of the occurrence. Unless otherwise provided in this contract, the Contractor assumes all costs, risks, liabilities, and consequences of performing any work it is directed to perform that falls within any of the categories defined in paragraph (c) prior to receipt of the Contracting Officer's response issued under paragraph (e) of this clause.

(e) The Contracting Officer shall respond in writing within 30 days to any notice made under paragraph (d) of this clause. A failure of the parties to agree upon the nature of a direction, or upon the contract action to be taken with respect thereto, shall be subject to the provisions of the Disputes clause of this contract.

(f) The Contractor shall provide copies of all correspondence to the Contracting Officer and the COR.

(g) Any action(s) taken by the Contractor, in response to any direction given by any person acting on behalf of the Government or any Government official other than the Contracting Officer or the COR acting within his or her appointment, shall be at the Contractor's risk.

**G.2 WBR POSTAWARD CONFERENCE – BUREAU OF  
1452.242-80 RECLAMATION****JULY 1993**

(a) Prior to the Contractor starting work, a Postaward conference (as described in FAR Subpart 42.5), will be convened by the contracting activity or contract administration office. The Contractor's Project Manager shall attend the conference. If the contract involves subcontractors, a representative of each major subcontractor is also required to attend.

(b) The conference will be held at a location to be determined in the vicinity of Farmington, New Mexico.

(c) The Contracting Officer and the Contractor will agree to the date and time of the conference after award of the contract. In event of a conflict in schedules, the Contracting Officer shall establish the date for the conference.

(d) The Contractor shall include any associated costs for attendance at the conference in its offer.

**G.3    DOI-AAAP 0028            ELECTRONIC INVOICING AND PAYMENT            APR 2013**  
**REQUIREMENTS – INVOICE PROCESSING PLATFORM (IPP)**

Payment requests must be submitted electronically through the U. S. Department of the Treasury's Invoice Processing Platform System (IPP).

"Payment requests" means any request for contract financing payment or invoicing payment by the Contractor. To constitute a proper invoice, the payment request must comply with the requirements identified in the applicable Prompt Payment clause included in the contract, or the clause 52.212-4 Contract Terms and Conditions-Commercial Items included in commercial item contracts. The IPP website address is: <https://www.ipp.gov>.

**The Contractor shall also submit an electronic copy of their regular vendor invoice and an electronic copy of their IPP invoice to the Contract Specialist at [mburgio@usbr.gov](mailto:mburgio@usbr.gov) and the Contracting Officer at [mverbitski@usbr.gov](mailto:mverbitski@usbr.gov) once the IPP invoice has been submitted.**

**Failure to email the invoice may cause significant delay or possible rejection of your payment request**

The Contractor must use the IPP website to register access and use IPP for submitting requests for payment. The Contractor Government Business Point of Contact (as listed in CCR) will receive enrollment instructions via email from the Federal Reserve Bank of Boston (FRBB) within 3-5 business days of the contract award date. Contractor assistance with enrollment can be obtained by contacting the IPP Production Helpdesk via email [ippgroup@bos.frb.org](mailto:ippgroup@bos.frb.org) or phone (866) 973-3131.

If the Contractor is unable to comply with the requirement to use IPP for submitting invoices for payment, the Contractor must submit a waiver request in writing to the Contracting Officer with its proposal or quotation.



## SECTION H – SPECIAL CONTRACT REQUIREMENTS

### H.1 DOI-AAAP 0050 CONTRACTOR PERFORMANCE ASSESSMENT REPORTING SYSTEM DEC 2015

1. [FAR 42.1502](#) directs all Federal agencies to collect past performance information on contracts. The Department of the Interior (DOI) has implemented the Contractor Performance Assessment Reporting System (CPARS) to comply with this regulation. One or more past performance evaluations will be conducted in order to record your contract performance as required by [FAR 42.15](#).
2. The past performance evaluation process is a totally paperless process using CPARS. CPARS is a web-based system that allows for electronic processing of the performance evaluation report. Once the report is processed, it is available in the Past Performance Information Retrieval System (PPIRS) for Government use in evaluating past performance as part of a source selection action.
3. We request that you furnish the Contracting Officer (CO) with the name, position title, phone number, and email address for each person designated to have access to your firm's past performance evaluation(s) for the contract no later than **30 days after award**. Each person granted access will have the ability to provide comments in the Contractor portion of the report and state whether or not the Contractor agrees with the evaluation, before returning the report to the Assessing Official (AO). Information in the report must be protected as source selection sensitive information not releasable to the public.
4. When your Contractor Representative(s) are registered in CPARS, they will receive an automatically generated email with detailed login instructions. Further details, systems requirements, and training information for CPARS is available at <https://www.cpars.gov/>.
5. Within 60 days after the end of a performance period, the AO will complete an interim or final past performance evaluation, and the report will be accessible at <https://www.cpars.gov/>.
  - a. Contractor Representatives may then provide comments in response to the evaluation, or return the evaluation without comment.
  - b. Your comments should focus on objective facts in the AO's narrative and should provide your views on the causes and ramifications of the assessed performance.
  - c. All information provided should be reviewed for accuracy prior to submission.
  - d. If you elect not to provide comments, please acknowledge receipt of the evaluation by indicating "No comment" in the space provided, and then selecting "Accept the Ratings and Close the Evaluation".
  - e. Your response is due within 60 calendar days after receipt of the CPAR. On day 15, the evaluation will become available in PPIRS-RC marked as "Pending" with or without comments and whether or not it has been closed.
  - f. If you do not sign and submit the CPAR within 60 days, it will automatically be returned to the Government and will be annotated: "The report was delivered/received by the contractor on (date). The contractor neither signed nor offered comment in response to this assessment."
6. The following guidelines apply concerning your use of the past performance evaluation:
  - a. Protect the evaluation as source selection information. After review, transmit the evaluation by completing and submitting the form through CPARS. If for some reason you are unable to view and/or submit the form through CPARS, contact the CO for instructions.
  - b. Strictly control access to the evaluation within your organization. Ensure the evaluation is never released to persons or entities outside of your control.
  - c. Prohibit the use of or reference to evaluation data for advertising, promotional material, pre-award surveys, responsibility determinations, production readiness reviews, or other similar purposes.
7. If you wish to discuss a past performance evaluation, you should request a meeting in writing to the CO no later than seven days following your receipt of the evaluation. The meeting will be held in person or via telephone or other means during your 60-day review period.
8. A copy of the completed past performance evaluation will be available in CPARS for your viewing and for Government use supporting source selection actions after it has been finalized.

## SECTION I – CONTRACT CLAUSES

### I.1 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 the following addresses:

FAR Clauses - <https://www.acquisition.gov/far/>

Clause	Title	Date
52.202-1	Definitions	November 2013
52.203-3	Gratuities	April 1984
52.203-5	Covenant Against Contingent Fees	May 2014
52.203-6	Restrictions on Subcontractor Sales to the Government	September 2006
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	October 2010
52.203-13	Contractor Code of Business Ethics and Conduct	October 2015
52.203-17	Contractor Employee Whistleblower Rights and Requirements To Inform Employees of Whistleblower Rights	April 2014
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements	January 2017
52.204-4	Printed or Copied Double-Sided on Post Consumer Fiber Content Paper	May 2011
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards	October 2016
52.204-13	System for Award Management Maintenance	October 2016
52.204-14	Service Contract Reporting Requirements	October 2016
52.204-18	Commercial and Government Entity Code Maintenance	July 2016
52.204-21	Basic Safeguarding of Covered Contractor Information Systems	June 2016
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	October 2015
52.209-9	Updates of Publicly Available information regarding Responsibility Matters	July 2013
52.209-10	Prohibition on Contracting with Inverted Domestic Corporations	November 2015
52.215-2	Audit and Records--Negotiation	October 2010
52.215-8	Order of Precedence--Uniform Contract Format	October 1997
52.215-11	Price Reduction for Defective Certified Cost or Pricing Data - Modifications	August 2011
52.215-13	Subcontractor Certified Cost or Pricing Data – Modifications	October 2010
52.219-8	Utilization of Small Business Concerns	November 2016
52.219-9	Small Business Subcontracting Plan	January 2017
52.219-16	Liquidated Damages – Subcontracting Plan	January 1999
52.219-28	Post-Award Small Business Program Representation	July 2013
52.222-3	Convict Labor	June 2003
52.222-4	Contract Work Hours and Safety Standards Act - 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	July 2005
52.222-10	Compliance with Copeland Act Requirements	February 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	April 2015

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52.222-26	Equal Opportunity	September 2016
52.222-27	Affirmative Action Compliance Requirements for Construction	April 2015
52.222-35	Equal Opportunity for Veterans	October 2015
52.222-36	Affirmative Action For Workers with Disabilities	July 2014
52.222-37	Employment Reports Veterans	February 2016
52.222-40	Notification of Employee Rights Under the National Labor Relations Act	December 2010
52.222-50	Combating Trafficking in Persons	March 2015
52.222-54	Employment Eligibility Verification	October 2015
52.222-55	Minimum Wages Under Executive Order 13658	December 2015
52.222-60	Paycheck Transparency (Executive Order 13673)	October 2016
52.222-62	Paid Sick Leave Under Executive Order 13706)	January 2017
52.223-2	Affirmative Procurement of Biobased Products Under Service and Construction Contracts	September 2013
52.223-3 Alt I	Hazardous Material Identification and Material Safety Data - Alternate I (July 1995)	January 1997
52.223-6	Drug Free Workplace	May 2001
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	August 2011
52.225-13	Restrictions on Certain Foreign Purchases	June 2008
52.225-14	Inconsistency Between English Version and Translation of Contract	February 2000
52.226-1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises	June 2000
52.227-1	Authorization and Consent	December 2007
52.227-4	Patent Indemnity--Construction Contracts	December 2007
52.228-2	Additional Bond Security	October 1997
52.228-11	Pledges Of Assets	January 2012
52.228-12	Prospective Subcontractor Requests for Bonds	May 2014
52.228-14	Irrevocable Letter of Credit	November 2014
52.228-15	Performance and Payment Bonds--Construction	October 2010
52.229-3	Federal, State And Local Taxes	February 2013
52.232-17	Interest	May 2014
52.232-23	Assignment Of Claims	May 2014
52.232-33	Payment by Electronic Funds Transfer – System for Award Management	July 2013
52.232-39	Unenforceability of Unauthorized Obligations	June 2013
52.232-40	Providing Accelerated Payment to Small Business Subcontractors	December 2013
52.233-1 Alt I	Disputes - Alternate I (December 1991)	May 2014
52.233-3	Protest After Award	August 1996
52.233-4	Applicable Law for Breach of Contract Claim	October 2004
52.236-5	Material and Workmanship	April 1984
52.236-6	Superintendence by the Contractor	April 1984
52.236-7	Permits and Responsibilities	November 1991
52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements	April 1984
52.236-10	Operations and Storage Areas	April 1984
52.236-11	Use and Possession Prior to Completion	April 1984
52.236-12	Cleaning Up	April 1984
52.236-13	Accident Prevention	November 1991
52.236-15	Schedules for Construction Contracts	April 1984
52.236-16	Quantity Surveys	April 1984
52.236-17	Layout of Work	April 1984
52.236-21 Alt I	Specifications and Drawings for Construction - Alternate I (April 1984)	February 1997
52.236-26	Preconstruction Conference	February 1995
52.242-13	Bankruptcy	July 1995
52.243-6	Change Order Accounting	April 1984
52.244-6	Subcontracts for Commercial Items	January 2017
52.248-3	Value Engineering - Construction	October 2015
52.249-2 Alt I	Termination for Convenience of the Government (Fixed-Price) - Alternate I (September 1996)	April 2012
52.249-10	Default (Fixed-Price Construction)	April 1984
52.253-1	Computer Generated Forms	January 1991

**I.2 52.203-14 DISPLAY OF HOTLINE POSTER(S)****OCT 2015****(a) Definition.**

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

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

- (1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites—
  - (i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and
  - (ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.
- (2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.
- (3) Any required posters may be obtained as follows:

Poster(s)	Obtain from
DHS OIG Hotline Poster	<a href="http://www.oig.dhs.gov">www.oig.dhs.gov</a> or <a href="mailto:mburgio@usbr.gov">mburgio@usbr.gov</a>

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

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed \$5.5 million, except when the subcontract—

- (1) Is for the acquisition of a commercial item; or
- (2) Is performed entirely outside the United States.

**I.3 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 postconsumer material content; and
- (2) Submit this estimate to **the Contracting Officer.**

**I.4 52.225-11 BUY AMERICAN-CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS****OCT 2016****(a) Definitions.** As used in this clause--

“Caribbean Basin country construction material” means a construction material that--

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

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

“Commercially available off-the-shelf (COTS) item” —

(1) Means any item of supply (including construction material) that is—

(i) A commercial item (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.

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

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

“Cost of components” means--

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

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

“Designated country” means any of the following countries:

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

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

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

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

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

“Domestic construction material” means—

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

(2) A construction material manufactured in the United States, if—

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(ii) The construction material is a COTS item.

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

- (1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

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

“Least developed country construction material” means a construction material that--

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

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

“WTO GPA country construction material” means a construction material that--

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

(b) *Construction materials.*

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.50-5(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

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

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

[*Contracting Officer to list applicable excepted materials or indicate “none”*]

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

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

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

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

(c) Request for determination of inapplicability of the Buy American Statute.

(1)

(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including--

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before

contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

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

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

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

Foreign and Domestic Construction Materials Price Comparison

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

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

[Include other applicable supporting information. ]

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

## I.5 52.228-1 BID GUARANTEE

SEPT 1996

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

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

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

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

(c) The amount of the bid guarantee shall be **20%** percent of the bid price or **\$3 million**, 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.

**I.6 52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS MAY 2014**

- (a) Payment of price. The Government shall pay the Contractor the contract price as provided in this contract.
- (b) Progress payments. The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.
- (1) The Contractor's request for progress payments shall include the following substantiation:
- (i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.
  - (ii) A listing of the amount included for work performed by each subcontractor under the contract.
  - (iii) A listing of the total amount of each subcontract under the contract.
  - (iv) A listing of the amounts previously paid to each such subcontractor under the contract.
  - (v) Additional supporting data in a form and detail required by the Contracting Officer.
- (2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if --
- (i) Consideration is specifically authorized by this contract; and
  - (ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.
- (c) Contractor certification. Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

I hereby certify, to the best of my knowledge and belief, that --

- (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
- (2) All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;
- (3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and
- (4) This certification is not to be construed as final acceptance of a subcontractor's performance.

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(Name)

---



(Title)

\_\_\_\_\_  
(Date)

(d) Refund of unearned amounts. If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the “unearned amount”), the Contractor shall --

(1) Notify the Contracting Officer of such performance deficiency; and

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until --

(i) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or

(ii) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

(e) Retainage. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(f) Title, liability, and reservation of rights. All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as --

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(g) Reimbursement for bond premiums. In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.

(h) Final payment. The Government shall pay the amount due the Contractor under this contract after --

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor’s claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 6305).

(i) Limitation because of undefinitized work. Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A “contract action” is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(j) Interest computation on unearned amounts. In accordance with 31 U.S.C. 3903(c)(1), the amount payable under subparagraph (d)(2) of this clause shall be --

(1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and

(2) Deducted from the next available payment to the Contractor.

## **I.7 52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS JAN 2017**

Notwithstanding any other payment terms in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments* --

(1) *Types of invoice payments.* For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project:

(A) The due date for making such payments is 14 days after the designated billing office receives a proper payment request. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date shall be the 14th day after the date of the Contractor’s payment request, provided the designated billing office receives a proper payment request and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, is as specified in the contract or, if not specified, 30 days after approval by the by the Contracting Officer for release to the Contractor.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (*e.g.*, each separate building, public work, or other division of the contract for which the price is stated separately in the contract).

(A) The due date for making such payments is the later of the following two events:

(1) The 30th day after the designated billing office receives a proper invoice from the Contractor.

(2) The 30th day after Government acceptance of the work or services completed by the Contractor. For a final invoice when the payment amount is subject to contract settlement actions (*e.g.*, release of claims), acceptance is deemed to occur on the effective date of the contract settlement.

(B) If the designated billing office fails to annotate the invoice with the date of actual receipt at the time of receipt, the invoice payment due date is the 30<sup>th</sup> day after the date of the Contractor’s invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirement.

(2) *Contractor’s invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(xi) of this clause. If the invoice does not comply with these requirements, the designated billing office must return it within 7 days after receipt, with the reasons why it is not a proper invoice. When computing any interest penalty owed the

Contractor, the Government will take into account if the Government notifies the Contractor of an improper invoice in an untimely manner.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (*e.g.*, discount for prompt payment terms).

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

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) For payments described in paragraph (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts.

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic fund transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoices only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (*e.g.*, 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (*e.g.*, 52.232-33, Payment by Electronic Funds Transfer— System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(xi) Any other information or documentation required by the contract.

(3) *Interest penalty.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) *Computing penalty amount.* The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval is deemed to occur constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. If the actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes, and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(5) *Discounts for prompt payment.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

(6) *Additional interest penalty.*

(i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if--

(A) The Government owes an interest penalty of \$1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)

(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall --

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible--

(1) The designated payment office that receives the demand will annotate it with the date of receipt provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(b) *Contract financing payments* -- If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) *Subcontract clause requirements.* The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) *Prompt payment for subcontractors.* A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) *Interest for subcontractors.* An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause --

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the *Federal Register*, for interest payments under 41 U.S.C. 7109 in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) *Subcontractor clause flowdown.* A clause requiring each subcontractor to--

(i) Include a payment clause and an interest penalty clause conforming to the standards set forth in subparagraphs (c)(1) and (c)(2) of this clause in each of its subcontracts; and

(ii) Require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) *Subcontract clause interpretation.* The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that --

(1) *Retainage permitted.* Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) *Withholding permitted.* Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) *Withholding requirements.* Permit such withholding without incurring any obligation to pay a late payment penalty if --

- (i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and
- (ii) The Contractor furnishes to the Contracting Officer a copy of any notice issued by a Contractor pursuant to paragraph (d)(3)(i) of this clause.
- (e) *Subcontractor withholding procedures.* If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall --
  - (1) *Subcontractor notice.* Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;
  - (2) *Contracting Officer notice.* Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to subparagraph (e)(1) of this clause;
  - (3) *Subcontractor progress payment reduction.* Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under subparagraph (e)(1) of this clause;
  - (4) *Subsequent subcontractor payment.* Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and --
    - (i) Make such payment within --
      - (A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under subdivision (e)(5)(i) of this clause; or
      - (B) Seven days after the Contractor recovers such funds from the Government; or
    - (ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the *Federal Register*, for interest payments under 41 U.S.C. 7109 in effect at the time the Contractor accrues the obligation to pay an interest penalty;
  - (5) *Notice to Contracting Officer.* Notify the Contracting Officer upon --
    - (i) Reduction of the amount of any subsequent certified application for payment; or
    - (ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying --
      - (A) The amounts withheld under subparagraph (e)(1) of this clause; and
      - (B) The dates that such withholding began and ended; and
  - (6) *Interest to Government.* Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until --
    - (i) The day the identified subcontractor performance deficiency is corrected; or
    - (ii) The date that any subsequent payment is reduced under paragraph (e)(5)(i) of this clause.
  - (f) *Third-party deficiency reports --*
    - (1) *Withholding from subcontractor.* If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a "second-tier subcontractor") a written notice in accordance with 40 U.S.C. 3133, asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under paragraph (e)(6) of this clause --
      - (i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and
      - (ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (f)(1)(i) of this clause.
    - (2) *Subsequent payment or interest charge.* As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall --
      - (i) Pay the amount withheld under paragraph (f)(1)(ii) of this clause to such first-tier subcontractor; or
      - (ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the *Federal Register*, for interest payments under 41 U.S.C. 7109 in effect at the time the Contractor accrues the obligation to pay an interest penalty.
  - (g) *Written notice of subcontractor withholding.* The Contractor shall issue a written notice of any withholding to a subcontractor (with a copy furnished to the Contracting Officer), specifying --
    - (1) The amount to be withheld;

- (2) The specific causes for the withholding under the terms of the subcontract; and
- (3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.
- (h) *Subcontractor payment entitlement.* The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.
- (i) *Prime-subcontractor disputes.* A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the United States is a party. The Government may not be interpleaded in any judicial or administrative proceeding involving such a dispute.
- (j) *Preservation of prime-subcontractor rights.* Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.
- (k) *Non-recourse for prime contractor interest penalty.* The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the Government for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.
- (l) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—
- (1) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—
- (i) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);
- (ii) Affected contract number and delivery order number if applicable;
- (iii) Affected line item or subline item, if applicable; and
- (vi) Contractor point of contact.
- (2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

**I.8    52.236-1    PERFORMANCE OF WORK BY THE CONTRACTOR    APR 1984**

The Contractor shall perform on the site, and with its own organization, work equivalent to at least **fifteen (15)** percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

**I.9    52.236-2    DIFFERING SITE CONDITIONS    APR 1984**

- (a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of --
- (1) Subsurface or latent physical conditions at the site which differ materially from those indicated in this contract; or
- (2) Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.
- (b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.
- (c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; *provided*, that the time prescribed in paragraph (a) of this clause for giving written notice may be extended by the Contracting Officer.
- (d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

**I.10 52.236-3 SITE INVESTIGATION AND CONDITIONS  
AFFECTING THE WORK**

**APR 1984**

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to

- (1) conditions bearing upon transportation, disposal, handling, and storage of materials;
- (2) the availability of labor, water, electric power, and roads;
- (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site;
- (4) the conformation and conditions of the ground; and
- (5) the character of equipment and facilities needed preliminary to and during work performance.

The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

**I.11 52.236-4 PHYSICAL DATA**

**APR 1984**

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

(a) The indications of physical conditions on the drawings and in the specifications are the result of **geologic investigations conducted for the Block 9 through 11 project area. See SECTION 53 10 00, Geologic Investigations and SECTION 53 20 00, Records of Geologic and Subsurface Investigations, of the specifications for additional information.**

**I.12 52.236-8 OTHER CONTRACTS**

**APR 1984**

The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Government employees.

**I.13 52.243-4 CHANGES**

**JUNE 2007**

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes

--

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) In the Government-furnished property or services; or
- (4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contracting Officer written notice stating --

- (1) The date, circumstances, and source of the order; and
- (2) That the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) of this clause.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

#### **I.14 52.246-21 WARRANTY OF CONSTRUCTION**

**MAR 1994**

(a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Government takes possession.

(c) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government-owned or controlled real or personal property, when that damage is the result of --

- (1) The Contractor's failure to conform to contract requirements; or
- (2) Any defect of equipment, material, workmanship, or design furnished.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall --

- (1) Obtain all warranties that would be given in normal commercial practice;
- (2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and



- (3) Enforce all warranties for the benefit of the Government, if directed by the Contracting Officer.
- (h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.
- (i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government nor for the repair of any damage that results from any defect in Government-furnished material or design.
- (j) This warranty shall not limit the Government's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

**I.15 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.
- (b) The use in this solicitation or contract of any Department of the Interior Acquisition Regulation (48 CFR 14) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

**I.16 1452.203-70 RESTRICTION ON ENDORSEMENTS – DEPARTMENT OF THE INTERIOR JULY 1996**

The Contractor shall not refer to contracts awarded by the Department of the Interior in commercial advertising, as defined in FAR 31.205-1, in a manner which states or implies that the product or service provided is approved or endorsed by the Government, or is considered by the Government to be superior to other products or services. This restriction is intended to avoid the appearance of preference by the Government toward any product or service. The Contractor may request the Contracting Officer to make a determination as to the propriety of promotional material.

**I.17 1452.204-70 RELEASE OF CLAIMS – DEPARTMENT OF THE INTERIOR JULY 1996**

After completion of work and prior to final payment, the Contractor shall furnish the Contracting Officer with a release of claims against the United States relating to this contract. The Release of Claims form (DI-137) shall be used for this purpose. The form provides for exception of specified claims from operation of the release.

**I.18 1452.215-70 EXAMINATION OF RECORDS BY THE DEPARTMENT OF THE INTERIOR APR 1984**

For purposes of the Examination of Records by the Comptroller General clause of this contract (FAR 52.215-2), the Secretary of the Interior, the Inspector General, and their duly authorized representative(s) from the Department of the Interior shall have the same access and examination rights as the Comptroller General of the United States.

**I.19 1452.228-70 LIABILITY INSURANCE – DEPARTMENT OF THE INTERIOR JULY 1996**

(a) The Contractor shall procure and maintain during the term of this contract and any extension thereof liability insurance in form satisfactory to the Contracting Officer by an insurance company which is acceptable to the Contracting Officer. The named insured parties under the policy shall be the Contractor and the United States of America. The amounts of the insurance shall be not less than as follows:

Worker's Compensation and Employer's Liability:	\$100,000.00 each person
General Liability:	\$500,000.00 each occurrence
Automotive Liability:	\$200,000.00 each person, \$500,000.00 each occurrence, \$20,000.00 property damage

R17PS00812

NGWSP Block 9 through 11

(b) Each policy shall have a certificate evidencing the insurance coverage. The insurance company shall provide an endorsement to notify the Contracting Officer 30 days prior to the effective date of cancellation or termination of the policy or certificate; or modification of the policy or certificate which may adversely affect the interest of the Government in such insurance. The certificate shall identify the contract number, the name and address of the Contracting Officer, as well as the insured, the policy number and a brief description of contract services to be performed. The contractor shall furnish the Contracting Officer with a copy of an acceptable insurance certificate prior to beginning the work.

**I.20 WBR 1452.223-80 ASBESTOS-FREE WARRANTY OCT 1992**

(a) The Contractor warrants that all items delivered, or work required by the contract, shall be free of asbestos in any form whatsoever except for the use of asbestos cement pipe.

(b) The Contractor may request the Contracting Officer to approve an exception to this prohibition when an asbestos-free product is not available. Such requests shall be fully documented and submitted as soon as possible after the contractor determines that an asbestos-free product is not available. Contracting Officer disapproval of a request for an exception shall be final and not subject to the Disputes clause of this contract.

**I.21 WBR 1452.223-81 SAFETY AND HEALTH – BUREAU OF RECLAMATION JUNE 2015**

(a) The Contractor shall not require any person employed in the performance of this contract (including subcontracts) to work under conditions which are unsanitary, hazardous, or dangerous to the employee's health or safety.

(b) Contractor shall comply with the most current version of the Bureau of Reclamation *Reclamation Safety and Health Standards* (RSHS) and, if applicable, the requirements of the Accident Prevention Clause (FAR 52.236-13).

(1) The RSHS manual as referenced in subparagraph (b) above shall be obtained at <http://www.usbr.gov/ssle/safety/RSHS/rshs.html>

(c) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910 from the Occupational Safety and Health Administration, U.S. Department of Labor, [www.osha.gov](http://www.osha.gov)

(d) In the event there is a conflict between the requirements contained in paragraphs (b) and (c) referenced herein, the more stringent requirement shall prevail

(e) The Contractor shall submit a written proposed safety program as prescribed in the RSHS and the written specifications.

(f) The Contractor shall maintain an accurate record of, and shall report to the Contracting Officer (or authorized representative) in the manner prescribed by the Contracting Officer, all cases of death, occupational diseases, or traumatic injury to employees or the public involved, and property damage in accordance with the RSHS and OSHA guidelines.

(g) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(h) If the RSHS is updated or amended by Reclamation during the course of this contract, the contractor will be notified in writing. The contractor shall comply with the current RSHS immediately upon written notification. Should the contractor feel that the updated version of RSHS constitutes a substantive change to the contract, affecting price or time (or both), the contractor may request an equitable adjustment in the contract price. Any such requests shall include a price proposal submitted in compliance with Contract Clause WBR 1452.243-80, Modification Proposals - Bureau of Reclamation, and in sufficient detail to allow meaningful analysis of labor, equipment and material.

**I.22 WBR 1452.223-82 PROTECTING FEDERAL EMPLOYEES AND THE PUBLIC FROM EXPOSURE TO TOBACCO SMOKE IN THE FEDERAL WORKPLACE – BUREAU OF RECLAMATION DEC 2009**

(a) In performing work under this contract, the contractor shall comply with the requirements of Executive Order 13058, dated August 9, 1997, which prohibits the smoking of tobacco products in all interior space owned, rented, or leased by the executive branch of the Federal Government, and in any outdoor areas under executive branch control in front of air intake ducts.

(b) In addition, pursuant to Federal Management Regulation (FMR) Bulletin 2009-B1, effective December 22, 2008, smoking is prohibited in courtyards and within 25 feet of doorways and air intake ducts on outdoor space under the jurisdiction, custody or control of GSA.

**I.23    WBR                    CERTIFICATION OF REPRESENTATIVES FOR CORPORATE    SEP 1996**  
**1452.228-84    SURETIES --BUREAU OF RECLAMATION**

Each surety company bond, that purports to have been executed by an agent or attorney-in-fact for the corporate surety, shall --

- (1) be accompanied by a power of attorney to the signatory agent or attorney-in-fact; and
- (2) the power of attorney or attorney-in-fact shall have been executed by the corporate surety upon a date prior to the date of the execution of the bond; or
- (3) be accompanied by a certification of the sureties to the effect that the power of attorney was in full force and effect upon the date of the bond.

**I.24    WBR                    EQUIPMENT OWNERSHIP AND OPERATING EXPENSE –            JULY 1998**  
**1452.231-81    BUREAU OF RECLAMATION**

(a) Definitions: "Acquisition cost," as used in this clause means, the Contractor's original purchase price (including sales tax less salvage value) of an item of equipment including any and all accessories and expendable components required for utilization the item of equipment. For used equipment which is reconditioned and recapitalized, "acquisition cost" shall mean the adjusted amount resulting from the recapitalized value of the equipment as determined from the Contractor's accounting records.

"Equipment," as used in this clause, means equipment in sound workable condition at the construction work site, either owned or controlled by the Contractor or its subcontractors at any tier, or obtained from a commercial rental source, and furnished for use under this contract.

"Ownership cost," as used in this clause, means allowances for construction equipment depreciation and cost of facilities capital.

"Operating cost," as used in this clause, means the cost of operating equipment such as operating crew labor, servicing labor and equipment, labor and parts for all repairs and maintenance, fuel, oil, grease, supplies, tire wear and repair.

(b) Policy. (1) Equitable adjustments made in the price of this contract pursuant to the Changes, Differing Site Condition, Suspension of Work, or other clause of the contract, may include allowable ownership and operating costs for equipment. In accordance with FAR 31.105(d), allowable ownership and operating costs for each piece of equipment, or groups of similar serial or series equipment, shall be determined using actual cost data when such data are available from the Contractor's accounting records. When actual costs cannot be so determined or when actual cost data for a specific element of operating cost do not contain costs for individual pieces or types of equipment, the procedures in paragraph (d) of this clause shall be used to determine allowable costs (provided, in the case of operating costs, that the costs are reconciled to the Contractor's total cost for that operating element). For fully depreciated equipment, the procedures in paragraph (e) of this clause shall be used to determine allowable costs.

(c) Required data. In any request made for an equitable adjustment, the Contractor shall furnish to the Contracting Officer --

- (1) A complete description of each item of equipment (including all accessory equipment attached thereto) to be used in connection with the work to be performed listing the date of manufacture, date of acquisition, make, model, size, capacity, mounting, and type of power;
  - (2) Evidence of the acquisition cost of new or used equipment to be used including all available current and historical supporting cost data. If evidence of acquisition cost is not provided by the Contractor or if the data provided are unacceptable to the Contracting Officer, the Contracting Officer may determine the acquisition cost by other appropriate means.
- (d) Use of the predetermined rate schedule.
- (1) When the Contracting Officer determines that allowable ownership and operating costs cannot be determined from the Contractor's accounting records, the U.S. Army Corps of Engineers pamphlet entitled "Construction Equipment Ownership and Operating Expense Schedule" (Schedule) for the State in which the construction site is located shall be used to calculate ownership and operating rates. Copies of the Schedules can be obtained, free of charge, from the U.S. Army Corps of Engineers, Publications Depot, 2803 52nd Avenue, Hyattsville, MD 20781-1102.
  - (2) For the purpose of determination of the hourly rates to be applied under this contract, working conditions shall be considered average, unless otherwise determined by the Contracting Officer.
  - (3) Rates for equipment not listed in the Schedule shall be calculated using the formulas in the Schedule. Alternatively, the Contracting Officer may determine to use rates in the Schedule for equipment comparable to the unlisted equipment, including horsepower and auxiliary features.
- (e) Fully depreciated equipment. No depreciation or rental cost shall be allowed on equipment fully depreciated by the Contractor or by any division, subsidiary, parent company, or affiliate under common control. However, a reasonable rate for using fully depreciated equipment may be allowed by the Contracting Officer. Unless otherwise determined by the Contracting Officer, such hourly rate shall not exceed a value computed by multiplying the depreciation rate for the equipment (as shown in the Schedule table entitled "Construction Equipment Ownership and Operating Expense") by the economic index for the year of equipment manufacturer (as shown in the Schedule table entitled "Economic Indexes for Construction Equipment"), divided by the economic index correspondingly with the year the Schedule is published. The year used for the basis of the rates in the Schedule is indicated in the table entitled "Equipment Age Adjustment Factors for Ownership Costs." Idle or standby time will not be paid for fully depreciated equipment.
- (f) Idle or standby time. Equipment ownership costs for idle or standby time of equipment not fully depreciated shall be determined as follows:
- (1) The allowable rate shall be made at 50 percent of the hourly rate for ownership costs if actual cost data are used. The maximum hours per week allowed shall not exceed 40 hours or the amount of hours regularly worked by the Contractor, whichever is less. No allowance shall be made for Saturdays, Sundays, or holidays, when work is not actually performed.
  - (2) If actual cost data cannot be determined, the rate shall be computed in accordance with the Schedule.
  - (3) No costs shall be allowed for time when the equipment would have been otherwise idle or was not in good operating condition.
  - (4) Periods of time less than 2 hours on which equipment is down for normal and regular servicing and for minor field repair or field maintenance shall be considered by the Contractor to be operating time rather than idle or standby time and such periods shall not be deducted from use or operating time.
  - (5) No costs are allowable for fully depreciated equipment.

(g) Rental. Allowable costs for renting or leasing of equipment shall be determined in accordance with FAR 31.105(d)(2)(ii) and 31.205-36.

**I.25 WBR LIMITATION OF FUNDS (FIXED-PRICE CONTRACT) – SEPT 2003**  
**1452.232-80 BUREAU OF RECLAMATION**

(a) Pursuant to Section 12 of the Reclamation Project Act of 1939 (43 U.S.C. 388) incremental funding for this contract will be made available in accordance with this clause. This statute permits the Secretary of the Interior to enter into contracts which will cover such periods as the Secretary may consider necessary but in which liability of the United States shall be contingent upon appropriations being made therefore. For purposes of this clause, the term "appropriations" includes the Bureau of Reclamation's subsequent allocation of funds for this contract.

(b) Incremental funding in the amount of 50 % of the award amount is presently available for payment and allotted under this contract. This present funding allotment is contemplated to cover the work to be performed until contract completion. A schedule for anticipated future funding allotments is as follows. This information is for planning purposes only and may not be fully representative of the funds actually allotted under this contract:

FISCAL YEAR FUNDING AMOUNT

On award of contract	50%
Anticipated by September 22, 2017	50%

(c) For work identified in paragraph (b) of this clause, the Contractor agrees to perform up to the point at which the total amount payable by the Government, including reimbursement in the event of termination of specified work for the Government's convenience, approximates the total amount currently allotted to the contract. The Contractor shall not be obligated to continue performance of this work beyond that point. The Government shall not be obligated in any event to reimburse the Contractor in excess of the amount allotted to the contract for this work notwithstanding any contrary provisions of the Termination for Convenience of the Government clause of this contract.

(d) Notwithstanding the date specified in paragraph (b) of this clause, the Contractor shall notify the Contracting Officer in writing at least sixty days prior to the date when, in the Contractor's best judgment, the work will reach the point at which the total amount payable by the Government, including any cost for termination for convenience, will approximate 75 percent of the total amount then allotted to the contract for performance of work identified in paragraph (b) of this clause. The notification shall state (1) the estimated date when that point will be reached and (2) an estimate of additional funding, if any, needed to continue performance of the work up to the next scheduled date for allotment of funds identified in paragraph (b) of this clause, or to a mutually agreed upon substitute date. The notification shall also advise the Contracting Officer of the estimated amount of additional funds that will be required for the timely performance of work funded pursuant to this clause, for a subsequent period as may be specified in the allotment schedule in paragraph (b) of this clause, or otherwise agreed to by the parties. If after such notification additional funds are not allotted by the date identified in the Contractor's notification, or by an agreed substitute date, the Contracting Officer shall terminate any work for which additional funds have not been allotted, pursuant to the Termination for Convenience of the Government clause of this contract.

(e) When additional funds are allotted for continued performance of the work identified in paragraph (b) of this clause, the parties will agree as to the period of contract performance which will be covered by the funds. The provisions of paragraph (c) through (e) of this clause will apply in like manner to the additional allotted funds and agreed substitute date, and the contract will be modified accordingly through revision of paragraph (b) of this clause. The Contracting Officer is the only person authorized to provide notice, communication, or other form of representation to increase or decrease the amount of funds allotted by the Government to this contract. . If agreement cannot be reached, the Contracting Officer will make a final decision as to the period of contract performance that will be covered by the funds. This decision may be appealed by the Contractor under the Disputes clause of the contract.

(f) If, solely by reason of failure of the Government to allot additional funds in amounts sufficient for timely performance of the work identified in paragraph (b) of this clause, the Contractor incurs additional costs or is

delayed in the performance of the work under this contract and if additional funds are allotted, an equitable adjustment will be made in the price or prices (including appropriate target, billing, and ceiling prices where applicable) of work, or in the time of delivery, or both. Failure to agree to any such equitable adjustment hereunder shall be a dispute concerning a question of fact within the meaning of the Disputes clause of this contract.

(g) The Government may at any time prior to termination allot additional funds for the performance of the work identified in paragraph (b) of this clause.

(h) The termination provisions of this clause do not limit the rights of the Government under the Default clause of this contract. The provisions of this clause are limited to the work and allotment of funds as set forth in paragraph (b) of this clause. This clause is inapplicable once the contract is fully funded except with regard to the rights or obligations of the parties concerning equitable adjustments negotiated under paragraphs (e) or (f) of this clause.

(i) Change orders shall not be considered authorization to exceed the amount allotted by the Government as specified in paragraph (b) of this clause unless the amount is increased by inclusion of a statement contained in the change order.

(j) Nothing in this clause affects the right of the Government to terminate this contract pursuant to the Termination for Convenience of the Government clause of this contract.

**1.26 WBR PAYMENT FOR MOBILIZATION AND PREPARATORY WORK– BUREAU OF RECLAMATION ALT I(MAY 2000) MAY 2000**  
**1452.232-81 WORK– BUREAU OF RECLAMATION ALT I(MAY 2000)**  
**ALT I**

(a) General. Payment for the Mobilization and Preparatory Work line item of the schedule will be made as reflected herein. To the extent that this line item exceeds the percentage of total contract pricing as estimated by the Contracting Officer in WBR 1452.236-85, Instruction for Mobilization and Preparatory Work Schedule Line Item, payment will be made as reflected in Section (d)(5) below. Reclamation will make payment to the Contractor in accordance with this clause for operations including, but not limited to, those necessary for --

- (1) Movement of personnel, equipment, supplies, and incidentals to the project site;
- (2) The establishment of offices, buildings, plants and other facilities, at the site (excludes temporary buildings (e.g. storage sheds, shops, offices) and utilities listed in the Operations and Storage Areas clause of this contract;
- (3) Payment of premiums for project bonds and insurance; and
- (4) Other work and operations which must be performed or costs incurred incident to the initiation of meaningful work at the site and for which the contract does not otherwise provide for payment.
- (5) Approved detailed logic diagram(s) and the baseline schedule.

(b) Facilities and equipment covered by mobilization work.

- (1) All facilities, plant, and equipment which are established at, or brought to, the site shall be deemed to be subject to the provisions of this paragraph unless the Contracting Officer specifically provides other written authorization for a particular item or items.
- (2) The Contractor shall be solely responsible for the adequacy, efficiency, use, protection, maintenance, repair, and preservation of all facilities, plant, and equipment on site.
- (3) The facilities, plant, and equipment covered by this paragraph shall not be dismantled or removed from the site prior to completion of the work under the contract without the written authorization of the Contracting Officer.

(c) Termination for default. Should the Contractor be terminated for default as provided by the Default clause of this contract -

- (1) All facilities, plant, and equipment on the site shall be subject to the Government's right to take possession of and utilize such items for the purpose of completing the work;
- (2) The Contractor shall provide evidence of encumbrances, liens, or other security interests, to the Contracting Officer; and
- (3) Any encumbrance, lien, or other security interest on such facilities, plant, or equipment shall be subordinated to the Government's rights under the Default clause of this contract to utilize all facilities, plant, and equipment to complete the work under the contract.
- (d) Payment. Payment for mobilization and preparatory work under paragraph (a) of this clause shall be made at the contractor lump sum price for this item as contained in the Schedule. Progress payments for mobilization and preparatory work shall be made as follows –
- (1) In accordance with paragraph (g) of the Payments under Fixed Price Construction Contracts clause of this contract and upon submission of a proper invoice, the Government will reimburse the Contractor for the total amount of premiums paid for performance and payment bonds as required by the Performance and Payment Bond Requirements clause of this contract and for any insurance which is specified as payable by the Government under this contract.
- (2) Except as provided in (d)(1) above, progress payments for mobilization and preparatory work shall not be considered a separate division of work for the purposes of progress payments and shall be subject to retainage before payment of the total amount for this contract line item.
- (3) When progress payments totaling 5 percent of the total original contract amount have been made by the Government for all other work accomplished under the contract, the Government shall pay the Contractor 50 percent of the mobilization and preparatory work contract line item amount or 2.5 percent of the total original contract amount (whichever is the lower) exclusive of any payment already made to the Contractor for performance and payment bond premiums and specified insurance under subparagraph (d)(1) of this clause.
- (d)(4) When progress payments totaling 10 percent of the total original contract amount have been made by the Government for all other work accomplished under the contract and upon approval of the detailed logic diagram(s) and baseline schedule, the balance of the amount for the mobilization and preparatory work contract line item or 2.5 percent of the total original contract amount (whichever is the lower) shall be paid to the contractor.
- (5) If the contract amount for mobilization and preparatory work exceeds the total of the payments allowed under (3) and (4) above, the balance shall be paid when the contract work is substantially complete as determined by the Contracting Officer.

**I.27 WBR OTHER INVOICE REQUIREMENTS –  
1452.232-82 BUREAU OF RECLAMATION**

**JULY 1998**

- (a) As permitted by subparagraph (a)(2)(xi) of the Prompt Payment for Construction Contracts clause of this contract, to constitute a proper invoice the Contractor shall submit the update reports required by the "Construction Program" paragraph of the contract specification with each request for payment under the contract.
- (b) No payment shall be authorized for work performed out of sequence. If work is performed in violation of the sequence shown on the approved logic diagram(s), but is performed in a logical sequence and in compliance with the contract requirements, the current approved logic diagram(s) shall be updated to correct the out of sequence condition, thereby allowing approval of payment. Progress payments for incomplete activities shall be approved only if the activity's original duration exceeds 15 workdays or 20 shifts and the activity is in process at the end of the billing period, or if the estimated earnings for the activity exceed \$1,000.

**I.28 WBR CLAIMS ACCOUNTING – BUREAU OF RECLAMATION  
1452.233-81**

**JULY 1993**

The Contractor shall maintain separate accounting records substantially the same as prescribed under the Change Order Accounting Clause at [FAR 52.243-6 Change Order Accounting](#) on any claim for adjustment of contract price that may exceed \$50,000 under this contract.

**I.29 WBR PRESERVATION OF CULTURAL RESOURCES – BUREAU OF RECLAMATION  
1452.236-84 FEB 2000**

(a) General. Federal legislation provides for the protection and preservation of cultural resources that may be impacted or altered as a result of any Federal project, activity, or program or federally licensed or assisted project, activity, or program.

(b) Discovery of Resources. Should the Contractor, or any of the Contractor's employees, subcontractors, or parties operating or associated with the Contractor, in the performance of this contract discover evidence of possible cultural resources, the Contractor shall immediately cease work at that location and provide oral notification to the Contracting Officer, giving location and nature of the findings. The Contractor shall forward a written report of findings to the Contracting Officer within 48 hours.

(1) If a cultural resource is determined by Reclamation to be a Native American cultural item, then the Contractor shall cease the activity in the area of the discovery, make a reasonable effort to protect the items discovered, and wait for written approval from the Contracting Officer before resuming activity. This requirement is prescribed under the Native American Graves Protection and Repatriation Act (NAGPRA). Many States have “burial laws” that apply to non-Federal and non-Indian lands; the Contractor is responsible for complying with applicable state law when operating on non-Federal and non-Indian lands.

(2) If the discovery occurs on tribal lands, the Contractor shall immediately orally notify the responsible tribal official and the Contracting Officer and follow with written confirmation within 2 days to the responsible tribal official and the Contracting Officer. (The Reclamation office will supply the name and phone number of the tribal official. This information also can be obtained at <http://web.cast.uark.edu/other/nps/nacd>.)

(3) The Contractor shall exercise care so as not to disturb or damage any cultural resources discovered during the execution of this contract, and shall provide such cooperation and assistance as may be necessary to preserve the findings for removal or other disposition by Reclamation. The Contractor shall not resume work in the area of a discovery until written notice to proceed is received from the Contracting Officer.

(c) Destruction of Archaeological Resources. Any person who excavates, removes, damages, alters or defaces or attempts to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands is subject to a maximum of five years in prison and \$250,000 fine, as prescribed under Sections 6 and 7 of the Archaeological Resources Protection Act. State law may provide other penalties on non-Federal lands.

(d) Approval of Use Areas and Borrow Sources. If the Contractor proposes to use a location other than an approved location (approved locations to be provided by the Contracting Officer), the location(s) must first be approved for use by the Contracting Officer. When considering an unapproved use area or borrow source, the Contractor shall submit a map showing the location to the Contracting Officer at least 45 calendar days in advance of any proposed use. The Contractor or his subcontractors shall take no action to use or alter the proposed location until written approval is provided by the Contracting Officer.

(e) Compensation for Delays. Where appropriate by reason of discovery, the Contracting Officer may order changes in the schedule or work. If such delays or changes are ordered, any equitable adjustment under the contract will be provided in accordance with the applicable clauses of the contract.



(f) Subcontractors. The Contractor shall insert this clause in all subcontracts that involve performance of work on job site terrain.

(g) Cost. Except as provided in subsection e above, the cost of complying with this contract clause shall be included in the prices offered in the schedule for other items of work.

(h) Government Access. The Contractor's arrangement with landowners shall permit the Government or its representatives access to the land to identify cultural resources and conduct appropriate inspections during the Contractor's use of the area or during material procurement.

(i) Definitions.

(1) "Cultural items" as defined by NAGPRA include Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony.

(2) "Cultural resources" is a broad term that includes prehistoric, historic, architectural, and traditional cultural properties; specific items include, but are not limited to, human skeletal remains, archaeological artifacts, records, and material remains related to such properties.

(3) "Funerary objects" means Native American items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains.

(4) "Human remains" means the physical remains of the body of a person.

(5) "Native American" means of, or relating to, a tribe, people, or culture that is indigenous to the United States.

(6) "Sacred objects" means Native American items that are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. These items are specifically limited to objects that were devoted to a traditional Native American religious ceremony or ritual and which have religious significance or function in the continued observance or renewal of such ceremony.

(7) "Objects of cultural patrimony" means Native American items having ongoing historical, traditional, or cultural importance central to the Indian tribe or Native Hawaiian organization itself, rather than property owned by an individual tribal or organization member. These objects are of such central importance that they may not be alienated, appropriated, or conveyed by any individual tribal or organization member.

**I.30 WBR  
1452.237-80**

**SECURITY REQUIREMENTS – BUREAU OF  
RECLAMATION**

**FEB 2017**

**(a) General Security Requirements:**

(1) This clause addresses security requirements, including general procedural requirements, information security requirements, contractor employee suitability requirements, identification card requirements, site security requirements, vessel exclusion barriers, and information technology security requirements. Within this clause, COR means Contracting Officer's Representative. If there is no COR appointed and identified to the Contractor, the term instead will mean the Program Manager or any other authorized individual responsible for technical oversight under the contract. "Work site" means the Government facility, office, construction site, and any other area within the Government office or facility that the Contractor must access to accomplish work under this contract.

(2) The work performed under this contract shall only be accomplished by individuals (in the employment of the Contractor or any subcontractors) whose conduct and behavior is consistent with the efficiency of the Federal Service and the requirements of this contract, and who are acceptable to the CO. If Reclamation finds a Contractor employee to be unsuitable or unfit for his or her assigned duties, the CO will direct the Contractor to remove the individual from the contract and access to the Federal facility at which the contract activities are occurring.

(3) The Contractor's employees governed by this contract may need access to sensitive information and/or sensitive areas. The Federal Government (Government) reserves the right, in its sole discretion, to determine suitability of Contractor personnel and deny access to any sensitive information or project specific area to any personnel for any cause.

(4) The Contractor is responsible for informing and ensuring compliance by its employees with any applicable security procedures of the Government facility where work may be performed under this contract.

(5) Any Contractor employee that will have access to a Federally-controlled facility or information system will be required to have a Government-issued identification card, consisting of a Personal Identity Verification (PIV) Card, a temporary identification card, or a visitor badge. (Note: within the Department of the Interior this card is known as a DOI Access Card.) During performance of the contract, the Contractor shall keep the COR apprised of any changes in personnel, or changes in personnel access or duration, to ensure that performance is not delayed by compliance with credentialing processes.

(6) A Contractor employee will not be provided access to a Government facility or information system until a Government PIV Card, temporary identification card, or visitor identification badge has been issued to the Contractor employee. For those individuals that will be receiving a PIV Card, the Government may, at its discretion, issue a temporary identification card or visitor identification badge after the electronic background investigation forms have been received and the investigation is initiated.

(7) All Contractor employees shall access the facility via the facility's entry screening system and visibly display the Government-issued PIV Card, temporary identification card, or visitor identification badge at all times. Contractor employees must visibly wear the Government-issued identification card at all times they are on Government facilities. Contractor employees are responsible for the safekeeping of all Government-issued identification cards, whether on-site or off-site. Cards that have been lost, damaged, or stolen must be reported to the COR and DOI Access Sponsor within 24 hours. The Contractor shall return all identification cards and card keys and any other Government property and information upon completion of performance or when personnel depart permanently or for a period of 7 days or more. The Contractor may be required to turn in access control cards or identification cards on a daily basis.

(8) Misuse or loss of access control or identification cards, or failure to comply with required surrender of such cards may, at Government discretion, result in Contractor personnel being denied access to the work site, at no cost to Government. The Contractor may be charged up to \$500 for each occurrence for any required replacement of Government-issued access control or identification cards due to loss or misuse. At the end of contract performance, or when a Contractor employee is no longer working under this contract, the Contractor shall ensure that all access control and identification cards are returned to the COR.

(9) All Contractor personnel, including subcontractor personnel, with access to the work site shall be U.S. citizens or foreign individuals legally residing in, or legally admitted to, the U.S. For all non-U.S. citizens working under this contract, irrespective of length of time working on the contract, the Contractor shall provide to the COR, legible and valid copies of the individual's passport and visa (unless individual is on the Visa Waiver Program) a minimum of 14 calendar days prior to beginning work or arriving at the facility. A driver's license is not acceptable identification. In addition, a completed form I-94 shall be submitted to the COR upon the individual's arrival at the work facility and prior to beginning work.

(10) The Contractor shall report all contacts with entities, individuals, and counsel/representatives (including foreign entities and foreign nationals) who seek in any way to obtain unauthorized access to sensitive information or areas. The Contractor shall report any violations of contract provisions, laws, executive orders, regulations, and guidance to the Contracting Officer (CO). The Contractor shall report any information raising a doubt as to whether an individual's eligibility for continued employment or access to sensitive information is consistent with the interests of National Security and the Public Trust.

(11) Unsanctioned, negligent, or willful inappropriate action on the part of the Contractor (or its employees) may result in termination of the contract or removal of some Contractor employees from Reclamation facilities at no cost to the Government. These actions include, but are not limited to, exploration of a sensitive system and/or information, introduction of unauthorized and/or malicious software, inappropriate release of sensitive information, or failure to follow prescribed access control policies and/or security procedures. Failure to comply with Reclamation policies, procedures, or other published security requirements may result in termination of the contract or removal of some contracted employees from Reclamation buildings and/or facilities at no cost to the Government.

(12) All provisions of this clause shall equally apply to all subcontractors. The Contractor shall incorporate the substance of this clause in all subcontracts.

(13) These security requirements apply to all sections of this Contract including Contract Drawings and other Contract Specifications as applicable. Related documents include other general provisions of Construction or

Operations and Maintenance type Contracts, including FAR clauses by reference or as amended by related documents.

**(b) Information Security Requirements.**

(1) Sensitive Information. The term “sensitive information” means any information which warrants a degree of protection and administrative control as defined by Reclamation or that meets the criteria for exemption from public disclosure set forth under Sections 552 and 552a of Title 5, United States Code: the Freedom of Information Act and the Privacy Act. Sensitive information is generally categorized as FOR OFFICIAL USE ONLY (FOUO) information or CONTROLLED UNCLASSIFIED INFORMATION (CUI), but in some cases may include other unclassified information. (The protection of National Security information is beyond the scope of this clause. If any work on National Security information is required under this contract, it is addressed under other contract clauses.) The Contractor shall protect this type of information from unauthorized release into public domain, or to unauthorized persons, organizations, or subcontractors. Information which, either alone or in aggregate, is deemed sensitive by Reclamation shall be handled and protected in accordance with Reclamation directives and standards for identifying and safeguarding sensitive information (SLE 02-01), which is available from the COR or at <http://www.usbr.gov/recman/DandS.html#sle>.

(i) Any Government-furnished information or material does not become the property of the Contractor and may be withdrawn at any time. Upon expiration or termination of the contract, all documents released to the Contractor and any material created using data from such documents shall be returned to the COR for final disposition. Government-furnished information residing on any electronic systems (laptops, servers, desktops, media) shall be deleted from those systems using a COR-approved data erasure solution. Only with prior authorization from the CO may the Contractor retain the material. The Contractor or subcontractor shall not disclose or release the materials provided to the Contractor to any individuals of the Contractor's organization not directly engaged in providing services under the contract or that do not have a valid need-to-know. All technical data provided to the Contractor by the Government shall be protected from public or private disclosure in accordance with the markings printed on them. All other information relating to the items to be delivered or the services to be performed under this contract shall not be disclosed by any means without prior approval of the CO. Prohibited dissemination or disclosure includes, but is not limited to: permitting access to such information by foreign nationals or by immigrant aliens who may be employed by the Contractor, publication of technical or scientific papers, advertising, disclosure to Contractor staff not investigated and deemed acceptable at the appropriate information sensitivity level, and any other public release. The Contractor shall maintain, and furnish upon request of the CO, records of the names of individuals who have access to sensitive material in its custody. All questions regarding information security, access, and control shall be referred to the COR.

(ii) The Contractor shall not release to anyone outside the Contractor's organization any sensitive, or otherwise protected information, regardless of medium in which it is contained (for example, film, tape, document, electronic), pertaining to any part of this contract or any Reclamation program or activity, unless the CO has given prior written approval. This includes, but is not limited to, news releases, marketing promotions, articles, interviews, reports, social media posts, and any other media releases. Requests for approval shall identify the specific information to be released, the medium to be used, the purpose for the release, and a description of the need-to-know. The Contractor shall submit its request to the CO ten business days before the proposed date for release. Subcontractors shall submit requests for authorization to release through the prime Contractor to the CO.

(iii) The Contractor shall notify the COR immediately when known or suspected loss/compromise of sensitive information or other documents, notes, drawings, sketches, reports, photographs, exposed film or similar information which may affect the security interests of Government has occurred. This requirement extends to employees and other personnel working on behalf of the Contractor, and expands responsibility to include prompt reporting of security issues, including observed or subsequently discovered efforts by unauthorized persons to gain unauthorized access to sensitive information.

(2) Classified Information.

(i) The disclosure of U.S. Government documents by third parties can result in damage to our national security. While this contract may not deal directly with classified information, each contractor is obligated to protect classified information pursuant to all applicable laws and to use Government information technology systems in accordance with agency procedures so that the integrity of such systems is not compromised.

(ii) Unauthorized disclosures of classified documents (whether in print, on a blog, or on websites, or other electronic or non-electronic media) do not alter the documents' classified status or automatically result in declassification of the documents. To the contrary, **classified information, whether or not already posted on public websites or disclosed to the media, remains classified, and must be treated as such by Federal employees and**

***contractors, until it is declassified by an appropriate U.S. Government authority.*** Executive Order 13526, *Classified National Security Information* (December 29, 2009), Section 1.1.(c) states, "Classified Information shall not be declassified automatically as a result of any unauthorized disclosure of identical or similar information." Although the Department has taken steps to prevent access to publicly disclosed classified materials from Departmental computers, it is important to understand our continuing duties and responsibilities in this regard.

(iii) Contractors (which include all employees of the contractor, as well as subcontractors and its employees performing work for the contractor) are reminded of the following obligations with respect to the treatment of classified information and the use of unclassified government information technology systems:

(iv) The contractor shall not, while using unclassified Government computers or other devices (such as phones or tablets) access documents that are marked classified (including classified documents made publicly available by a third party), as doing so risks that material still classified will be placed onto unclassified systems. This requirement does not restrict contractor access to unclassified, publicly available news reports (and other unclassified material) that may in turn discuss classified material, as distinguished from access to underlying documents that themselves are marked classified (including if the underlying classified documents are available on public web sites or otherwise in the public domain).

(v) For contracts that require access to classified information, the contractor is responsible for obtaining the required national security clearance through the Department of the Defense National Industrial Security Program Operating Manual (NISPOM). Any classified contracts will be coordinated through the Reclamation Chief Security Officer, or for IT requirements, the Bureau Chief Information Security Officer. No contractor shall access classified information unless proper clearances have been obtained and transmitted to Reclamation. For further information, refer to 443 DM 1 or DOD NISPOM 5220.22-M dated February 28, 2006 (incorporating change 2 dated May 18, 2016).

(vi) Classified information shall not be removed from official premises.

(vii) Classified information shall not be disclosed without proper authorization.

**I.31    WBR                    MODIFICATION PROPOSALS – BUREAU OF                    DEC 2001**  
**1452.243-80    RECLAMATION ALTERNATE III (JULY 1998)**  
**ALT III**

(a) In submitting any proposal for a modification under this contract (including any proposal for an equitable adjustment resulting from a change under the Changes clause of this contract), the Contractor shall:

(1) Comply with the contract time limits for submission of a proposal or as specified by the Contracting Officer;

(2) Apply the contract cost principles and procedures in Part 31 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract;

(3) Furnish a breakdown of all costs estimated to complete the work required by the modification (i.e., cost of added work, incurred cost of deleted work already performed, estimated cost of deleted work not yet performed, and net cost of the modification) to include all costs associated with materials (identified by item and quantity), equipment (identified by item, quantity and whether contractor-owned or rented), categories of direct labor, bond and insurance premium adjustments, subcontracts, overhead and other indirect costs, profit/fee, and any other pricing information requested by the Contracting Officer, in sufficient detail to permit a detailed analysis of fair and reasonable price and comply with the requirements of the Equipment Ownership and Operating Expense clause of this contract.

(4) Furnish a written justification for any requested time extensions; and

(5) For any pricing adjustment expected to exceed \$750,000 (considering both increases and decreases) --

(i) Submit cost and pricing data using the format specified in Table 15-2 of FAR 15.408 unless the Contracting Officer agrees that an exception applies under the circumstances set forth in FAR 15.403-1;

(ii) Certify in substantially the format prescribed in FAR 15.406-2 that to the best of its knowledge and belief, the data are accurate, complete and current as of the date of agreement on the negotiated price of the modification; and

(iii) Comply with the requirements of either the Subcontractor Cost or Pricing Data clause or the the Subcontractor Cost or Pricing Data -- Modifications clause of this contract when the adjustment includes a subcontract modification involving a pricing adjustment expected to exceed \$750,000.

(b) Under the Changes clause of this contract, failure of the Contractor to timely assert its right for an adjustment or to submit a proposal for an adjustment by the date specified in the clause (or another date specified by the Contracting Officer) may result in a unilateral adjustment of the contract by the Contracting Officer pursuant to the Disputes clause of this contract.

**I.32 1452.227-81 INDIAN PREFERENCE****APRIL 1984**

(a) The Contractor agrees to give preferences to Indians who can perform the work required regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation for training and employment opportunities under this contract and, to the extent feasible consistent with the efficient performance of this contract, training and employment preferences and opportunities shall be provided to Indians regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation who are not fully qualified to perform under this contract. The Contractor also agrees to give preference to Indian organizations and Indian-owned economic enterprises in the awarding of any subcontracts consistent with the efficient performance of this contract. The Contractor shall maintain such records as are necessary to indicate compliance with this paragraph.

(b) In connection with the Indian employment preference requirements of this clause, the Contractor shall also provide opportunities for training incident to such employment. Such training shall include on-the-job, classroom, or apprenticeship training which is designed to increase the vocational effectiveness of an Indian employee.

(c) If the Contractor is unable to fill its training and employment needs after giving full consideration to Indians as required by this clause, those needs may be satisfied by selection of persons other than Indians in accordance with the clause of this contract entitled "Equal Opportunity."

(d) If no Indian organizations or Indian-owned economic enterprises are available for awarding of subcontracts in connection with the work performed under this contract, the Contractor agrees to comply with the provisions of this contract involving utilization of small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, or labor surplus area concerns.

(e) As used in this clause:

(1) "Indian" means a person who is a member of an Indian Tribe. If the Contractor has reason to doubt that a person seeking employment preference is an Indian, the contractor shall grant the preference but shall require the individual within thirty (30) days to provide evidence from the Tribe concerned that the person is a member of that Tribe.

(2) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451); and

(3) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit provided that such Indian ownership shall constitute not less than 51 percent of the enterprise.

(4) "Indian Tribe" means an Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 668; 43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(f) The Contractor agrees to include the provisions of the clause including this paragraph (f) in each subcontract awarded under this contract.

(g) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Officer to be in the best interests of the Government.

**I.33 1452.226-71 INDIAN PREFERENCE PROGRAM****APRIL 1984**

(a) In addition to the requirements of the clause of this contract entitled “Indian Preference—Department of the Interior,” the Contractor agrees to establish and conduct an Indian preference program which will expand the opportunities for Indian organizations and Indian-owned economic enterprises to receive a preference in the awarding of subcontracts and which will expand opportunities for Indians to receive preference for training and employment in connection with the work to be performed under this contract. In this connection, the Contractor shall —

(1) Designate a liaison officer who will:

(i) Maintain liaison with the Government and Tribe(s) on Indian preference matters;

(ii) Supervise compliance with the provisions of this clause; and

(iii) Administer the Contractor's Indian preference program.

(2) Advise its recruitment sources in writing and include a statement in all advertisements for employment that Indian applicants will be given preference in employment and training incident to such employment.

(3) Not less than twenty (20) calendar days prior to commencement of work under this contract, post a written notice in the Tribal office of any reservations on which or near where the work under this contract is to be performed, which sets forth the Contractor's employment needs and related training opportunities. The notice shall include the approximate number and types of employees needed, the approximate dates of employment; the experience or special skills required for employment, if any; training opportunities available; and all other pertinent information necessary to advise prospective employees of any other employment requirements. The Contractor shall also request the Tribe(s) on or near whose reservation(s) the work is to be performed to provide assistance to the Contractor in filling its employment needs and training opportunities. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to contact in regard to the posting of notices and requests for Tribal assistance.

(4) Establish and conduct a subcontracting program which gives preference to Indian organizations and Indian-owned economic enterprises as subcontractors and suppliers under this contract. Consistent with the efficient performance of this contract, the Contractor shall give public notice of existing subcontracting opportunities by soliciting bids or proposals only from Indian organizations or Indian-owned economic enterprises. The Contractor shall request assistance and information on Indian firms qualified as suppliers or subcontractors from the Tribe(s) on or near whose reservation(s) the work under the contract is to be performed. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to be contacted in regard to the request for assistance and information. Public notices and solicitations for existing subcontracting opportunities shall provide an equitable opportunity for Indian firms to submit bids or proposals by including—

(i) A clear description of the supplies or services required including quantities, specifications, and delivery schedules which facilitate the participation of Indian firms;

(ii) A statement indicating the preference will be given to Indian organizations and Indian-owned economic enterprises in accordance with Section 7(b) of Public Law 93–638; (88 Stat. 2205; 25 U.S.C. 450e(b));

(iii) Definitions for the terms “Indian organization” and “Indian-owned economic enterprise” as prescribed under the “Indian Preference—Department of the Interior” clause of this contract;

(iv) A representation to be completed by the bidder or offeror that it is an Indian organization or Indian-owned economic enterprise; and

(v) A closing date for receipt of bids or proposals which provides sufficient time for preparation and submission of a bid or proposal. If after soliciting bids from Indian organizations and Indian-owned economic enterprises, no responsible bid is received, the Contractor shall comply with the requirements of paragraph (d) of the “Indian Preference—Department of the Interior” clause of this contract. If one or more responsible bids are received, award shall be made to the low responsible bidder if the bid price is determined to be reasonable. If the low responsive bid is determined to be unreasonable as to price, the Contractor shall attempt to negotiate a reasonable price and award a subcontract. If a reasonable price cannot be agreed upon, the Contractor shall comply with the requirements of paragraph (d) of the “Indian Preference—Department of the Interior” clause of the contract.

(5) Maintain written records under this contract which indicate:

(i) The names and addresses of all Indians seeking employment for each employment position available under this contract;

(ii) The number and types of positions filled by Indians and non-Indians, and the name, address and position of each Indian employed under this contract;

(iii) For those positions where there are both Indian and non-Indian applicants, and a non-Indian is selected for employment, the reason(s) why the Indian applicant was not selected;

(iv) Actions taken to give preference to Indian organizations and Indian-owned economic enterprises for subcontracting opportunities which exist under this contract;

(v) Reasons why preference was not given to Indian firms as subcontractors or suppliers for each requirement where it was determined by the Contractor that such preference would not be consistent with the efficient performance of the contract, and

(vi) The names and addresses of all Indian organizations and Indian-owned economic enterprises contacted, and receiving subcontract awards under this contract.

(6) The Contractor shall submit to the Contracting Officer for approval a semiannual report which summarizes the Contractor's Indian preference program and indicates the number and types of available positions filled and dollar amounts of all subcontracts awarded to Indian organizations and Indian-owned economic enterprises and all other firms.

(7) Records maintained pursuant to this clause will be kept available for review by the Government until expiration of one (1) year after final payment under this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

(b) For purpose of this clause, the following definitions of terms shall apply:

(1) The terms “Indian,” “Indian Tribe,” “Indian Organization, and “Indian-owned economic enterprise” are defined in the clause of this contract entitled “Indian Preference.”

(2) “Indian reservation” includes Indian reservations, public domain Indian allotments, former Indian reservations on Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act, (85 Stat. 688; 43 U.S.C. 1601 *et seq.* ).

(3) “On or near an Indian Reservation” means on a reservation or reservations or within that area surrounding an Indian reservation(s) where a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

(c) Nothing in the requirements of this clause shall be interpreted to preclude Indian Tribes from independently developing and enforcing their own Indian preference requirements. Such requirements must not hinder the Government's right to award contracts and to administer their provisions.

(d) The Contractor agrees to include the provisions of this clause including this paragraph (d) in each subcontract awarded under this contract and to notify the Contracting Officer of such subcontracts.

(e) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Officer to be in the best interest of the Government.



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## **SECTION J – LIST OF ATTACHMENTS AND EXHIBITS**

**ATTACHMENT 1: SPECIFICATIONS**

**ATTACHMENT 2: DRAWINGS**

**ATTACHMENT 3: GEOLOGY DRAWINGS AND FIGURES**

**ATTACHMENT 4: CONTINUATION OF SECTION B IN EXCEL FORMAT**

**ATTACHMENT 5: WAGE RATE REQUIREMENTS (CONSTRUCTION) WAGE DETERMINATIONS**

**ATTACHMENT 6: PAST PERFORMANCE QUESTIONNAIRE**

**ATTACHMENT 7: SITE VISIT LOCATION MAPS**

## SECTION K – REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

### K.1 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 provision may be accessed electronically at the following addresses:

FAR provisions <https://www.acquisition.gov/far/>

Provision	Title	Date
52.204-16	Commercial and Government Entity Code Reporting	July 2016
52.204-19	Incorporation by Reference of Representations and Certifications	December 2014

### K.2 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS JAN 2017

- (a)(1) The North American Industry Classification System (NAICS) code for this acquisition is **237110**.
- (2) The small business size standard is **\$36.5 million**.
- (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) [52.203-18](#), Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation. This provision applies to all solicitations.
  - (iv) [52.204-3](#), Taxpayer Identification. This provision applies to solicitations that do not include the provision at [52.204-7](#), System for Award Management.
  - (v) [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.
  - (vi) [52.209-2](#), Prohibition on Contracting with Inverted Domestic Corporations—Representation.

- (vii) [52.209-5](#), Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.
- (viii) [52.209-11](#), Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.
- (ix) [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.
- (x) [52.215-6](#), Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.
- (xi) [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.
- (xii) [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.
- (xiii) [52.222-22](#), Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at [52.222-26](#), Equal Opportunity.
- (xiv) [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.
- (xv) [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.
- (xvi) [52.222-57](#), Representation Regarding Compliance with Labor Laws (Executive Order 13673). This provision applies to solicitations expected to exceed \$50 million which are issued from October 25, 2016 through April 24, 2017, and solicitations expected to exceed \$500,000, which are issued after April 24, 2017.
- Note to paragraph (c)(1)(xvi):** By a court order issued on October 24, 2016, 52.222-57 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.
- (xvii) [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.
- (xviii) [52.223-4](#), Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA–designated items.
- (xix) [52.223-22](#), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation. This provision applies to solicitation that include the clause at [52.204-7](#).
- (xx) [52.225-2](#), Buy American Certificate. This provision applies to solicitations containing the clause at [52.225-1](#).
- (xxi) [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 \$77,533, the provision with its Alternate II applies.
- (D) If the acquisition value is \$77,533 or more but is less than \$100,000, the provision with its Alternate III applies.
- (xxii) [52.225-6](#), Trade Agreements Certificate. This provision applies to solicitations containing the clause at [52.225-5](#).
- (xxiii) [52.225-20](#), Prohibition on Conducting Restricted Business Operations in Sudan—Certification. This provision applies to all solicitations.
- (xxiv) [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.
- (xxv) [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 representations or certifications are applicable as indicated by the Contracting Officer:

XX(i) [52.204-17](#), Ownership or Control of Offeror.

XX(ii) [52.204-20](#), Predecessor of Offeror.

\_\_\_ (iii) [52.222-18](#), Certification Regarding Knowledge of Child Labor for Listed End Products.

- \_\_\_ (iv) [52.222-48](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment- Certification.
- \_\_\_ (v) [52.222-52](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification.
- \_\_\_ (vi) [52.223-9](#), with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA–Designated Products (Alternate I only).
- \_\_\_ (vii) [52.227-6](#), Royalty Information.
- \_\_\_ (A) Basic.
- \_\_\_ (B) Alternate I.
- \_\_\_ (viii) [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 website 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	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.

### **K.3 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS JULY 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 proceeding 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 (FAPIS) 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).

## SECTION L – INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS OR RESPONDENTS

### L.1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE

Provision	Title	Date
52.204-7	System for Award Management	October 2016
52.211-6	Brand Name or Equal	August 1999
52.215-1	Instructions to Offerors--Competitive Acquisition	January 2017
52.222-5	Construction Wage Rate Requirements—Secondary Site of the Work	May 2014

### L.2 52.216-1 TYPE OF CONTRACT APR 1984

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

### L.3 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	GOALS FOR FEMALE PARTICIPATION FOR EACH TRADE
45.9%	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 **San Juan County and McKinley County, New Mexico.**

**L.4 52.233-2 SERVICE OF PROTEST – DEPARTMENT OF THE INTERIOR SEP 2006  
(DEVIATION)**

(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 General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

**Department of the Interior, Bureau of Reclamation**  
**Upper Colorado Regional Office**  
**Acquisition Management Division, ATTN: Michael Verbitski**  
**125 South State Street, Room 8100**  
**Salt Lake City, UT 84138-1147**

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

(c) A copy of the protest served on the Contracting Officer shall be simultaneously furnished by the protester to the Department of the Interior Assistant Solicitor for Procurement and Patents, 1849 C Street, NW, Room 6511, Washington, D.C. 20240

**L.5 52.236-27 SITE VISIT (CONSTRUCTION) - ALTERNATE I (FEB1995) FEB 1995  
ALTI**

(a) The clauses at [52.236-2](#), Differing Site Conditions, and [52.236-3](#), Site Investigations and Conditions Affecting the Work, will be included in any contract awarded as a result of this solicitation. Accordingly, offerors or quoters are urged and expected to inspect the site where the work will be performed.

(b) An organized site visit has been scheduled for: **July 13, 2017 at 8:00 a.m. MDT**

(c) Participants will meet at:

**Twin Lakes Chapter House, located on the West side of Highway 491 near Mile Marker 13**

**Please see Section J, Attachment 7 for Site Visit Location Maps.**

(d) For further information regarding the site visit, contact:

**Name: Walter Shaw**  
**Address: 1235 La Plata Highway**

**Farmington, NM 87401**  
**Telephone: (505) 324-5032**

**L.6    52.236-28    PREPARATION OF PROPOSALS – CONSTRUCTION    OCT 1997**

(a) Proposals must be--

- (1) Submitted on the forms furnished by the Government or on copies of those forms; and
- (2) Manually signed. The person signing a proposal must initial each erasure or change appearing on any proposal form.

(b) The proposal form may require offerors to submit proposed prices for one or more items on various bases, including--

- (1) Lump sum price;
- (2) Alternate prices;
- (3) Units of construction; or
- (4) Any combination of paragraphs (b)(1) through (b)(3) of this provision.

(c) If the solicitation requires submission of a proposal on all items, failure to do so may result in the proposal being rejected without further consideration. If a proposal on all items is not required, offerors should insert the words "no proposal" in the space provided for any item on which no price is submitted.

(d) Alternate proposals will not be considered unless this solicitation authorizes their submission.

**L.7    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.

**L.8    1452.211-80    NOTICE OF INTENT TO ACQUIRE METRIC PRODUCTS AND SERVICES – BUREAU OF RECLAMATION    MAR 1993**

(a) Metric Transition Plan. The Department of the Interior on December 6, 1991, issued a Metric Transition Program (Part 758 Department Manual Chapter 1) to establish and describe the program's policies and responsibilities. The Bureau of Reclamation (Reclamation), has developed a Metric Transition Plan to implement metrication in Reclamation. This plan describes Reclamation's overall strategy for using the metric system, defines general requirements and procedures for carrying out the transition, and details the tasks with milestones for Reclamation offices to complete.

(b) The Omnibus Trade and Competitiveness Act of 1988 (Trade Act).

(1) Section 5164 of Public Law 100-418, the Trade Act, amended the Metric Conversion Act of 1975 and designated the metric system of weights and measures for United States trade and commerce.

(2) The Trade Act establishes September 30, 1992 as the implementation date (to the extent economically feasible) for Federal agencies to use the metric system of measurement in its procurements, grants, and other business-related activities.

(3) The Trade Act permits exceptions to the use of the metric system to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units.

(4) As a result of the Trade Act, the President issued Executive Order 12770 dated July 25, 1991, to



implement the congressional designation of the metric system as the preferred system of weights and measures for United States trade and commerce.

(c) Bureau of Reclamation Implementation. As a result of the Trade Act, Reclamation will, to the maximum extent practicable, use hard conversion and soft conversion metric systems in designing its construction projects, eventually phasing out use of the soft conversion metric system. Exceptions to this policy will only be made when such use is impractical, produces inefficiencies or market losses, or is not economically feasible.

(d) Expected Results. Reclamation expects its support of the metric system to result in increased use of the metric system by U.S. contractors, thereby increasing their ability to compete in the international marketplace. Increasing use of the metric system by U.S. contractors will eliminate possible restrictions on their bidding in the international marketplace and will eliminate any impact of economic blocks by metric countries restricting the acceptance of non-metric products.

## **L.9 1452.215-71 USE AND DISCLOSURE OF PROPOSAL INFORMATION – APR 1984 DEPARTMENT OF THE INTERIOR**

(a) Definitions. For the purposes of this provision and the Freedom of Information Act (5 U.S.C. 552), the following terms shall have the meaning set forth below:

(1) “Trade Secret” means an unpatented, secret, commercially valuable plan, appliance, formula, or process, which is used for making, preparing, compounding, treating or processing articles or materials which are trade commodities.

(2) “Confidential commercial or financial information” means any business information (other than trade secrets) which is exempt from the mandatory disclosure requirement of the Freedom of Information Act, 5 U.S.C. 552. Exemptions from mandatory disclosure which may be applicable to business information contained in proposals include exemption (4), which covers “commercial and financial information obtained from a person and privileged or confidential,” and exemption (9), which covers “geological and geophysical information, including maps, concerning wells.”

(b) If the offeror, or its subcontractor(s), believes that the proposal contains trade secrets or confidential commercial or financial information exempt from disclosure under the Freedom of Information Act, (5 U.S.C. 552), the cover page of each copy of the proposal shall be marked with the following legend:

“The information specifically identified on pages \_\_\_\_\_ of this proposal constitutes trade secrets or confidential commercial and financial information which the offeror believes to be exempt from disclosure under the Freedom of Information Act. The offeror requests that this information not be disclosed to the public, except as may be required by law. The offeror also requests that this information not be used in whole or part by the Government for any purpose other than to evaluate the proposal, except that if a contract is awarded to the offeror as a result of or in connection with the submission of the proposal, the Government shall have the right to use the information to the extent provided in the contract.”

(c) The offeror shall also specifically identify trade secret information and confidential commercial and financial information on the pages of the proposal on which it appears and shall mark each such page with the following legend:

“This page contains trade secrets or confidential commercial and financial information which the offeror believes to be exempt from disclosure under the Freedom of Information Act and which is subject to the legend contained on the cover page of this proposal.”

(d) Information in a proposal identified by an offeror as trade secret information or confidential commercial and financial information shall be used by the Government only for the purpose of evaluating the proposal, except that

- (i) if a contract is awarded to the offeror as a result of or in connection with submission of the proposal, the Government shall have the right to use the information as provided in the contract, and
- (ii) if the same information is obtained from another source without restriction it may be used without restriction.
- (e) If a request under the Freedom of Information Act seeks access to information in a proposal identified as trade secret information or confidential commercial and financial information, full consideration will be given to the offeror's view that the information constitutes trade secrets or confidential commercial or financial information. The offeror will also be promptly notified of the request and given an opportunity to provide additional evidence and argument in support of its position, unless administratively unfeasible to do so. If it is determined that information claimed by the offeror to be trade secret information or confidential commercial or financial information is not exempt from disclosure under the Freedom of Information Act, the offeror will be notified of this determination prior to disclosure of the information.
- (f) The Government assumes no liability for the disclosure or use of information contained in a proposal if not marked in accordance with paragraphs (b) and (c) of this provision. If a request under the Freedom of Information Act is made for information in a proposal not marked in accordance with paragraphs (b) and (c) of this provision, the offeror concerned shall be promptly notified of the request and given an opportunity to provide its position to the Government. However, failure of an offeror to mark information contained in a proposal as trade secret information or confidential commercial or financial information will be treated by the Government as evidence that the information is not exempt from disclosure under the Freedom of Information Act, absent a showing that the failure to mark was due to unusual or extenuating circumstances, such as a showing that the offeror had intended to mark, but that markings were omitted from the offeror's proposal due to clerical error.

**L.10 WBR GENERAL PROPOSAL INSTRUCTIONS – BUREAU OF JAN 1998**  
**1452.215-81 RECLAMATION**

In addition to the requirements of the Instructions to Offerors - Competitive Acquisitions provision of this solicitation, each offeror shall submit a proposal in accordance with the instructions contained in this provision.

(a) General contents. Each proposal shall:

- (1) Be specific and complete in every detail;
- (2) Conform to all solicitation provisions, clauses, or other requirements;
- (3) Be logically assembled, practical, legible, clear, concise, coherent; and indexed (cross-indexed, where appropriate); and
- (4) Contain appropriately numbered pages of each volume.

(b) Arrangement of Proposal. The proposal shall consist of three (3) physically separated volumes, individually entitled as stated below. The required number of copies for each volume are shown below:

Volume	Title	Copies Required	Electronic Copy (All files on one flash drive preferred)
I	<ul style="list-style-type: none"> <li>▪ Representations, Certifications, and Other Statements of Offerors</li> </ul>	Original + 2 copies	1-PDF

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## NGWSP Block 9 through 11

II	▪ Technical Proposal	Original + 5 copies	1-PDF
III	▪ Pricing Proposal	Original + 2 copies	1-Excel

(c) Separation of volumes. All copies of each proposal volume (i.e., all copies of Volume I) are to be packaged individually and clearly marked to identify contents, however, all electronic-copies shall be on one flash drive. The exterior of each package containing proposals shall be marked with the solicitation number, and the time and date for receipt of proposals and the name and address of the offeror, in order to prevent mishandling. **NO PRICING INFORMATION SHALL BE INCLUDED IN VOLUMES I AND II.**

(d) **Volume I**, Representations, Certifications, and Other Statements of Offerors shall consist of:

- (1) A fully executed Solicitation, Offer, and Award form (SF-1442) required by Section A of this solicitation. It shall be used as the cover sheet (or first page) of each copy of Volume I;
- (2) Contact information (include name, phone number(s) and e-mail address);
- (3) Fully executed and completed offeror representations, certifications, and acknowledgments required by Section K of this solicitation;
- (4) Additional information required by the solicitation to be furnished by the offeror which is not required to be obtained in another volume of the proposal;
- (5) Make or Buy Program (if applicable);
- (6) Requests for any waivers of any solicitation provisions or contract clauses;
- (7) A summary of any exemptions from, or deviations to, any other solicitation requirements; and

(e) **Volume II**, Technical Proposal. Refer to WBR 1452.215-82 Technical Proposal Instructions – Bureau of Reclamation provision located in Section L.

(f) **Volume III**, Pricing Proposal. Refer to WBR 1452.215-83 Alt I Pricing Proposal Instructions – Bureau of Reclamation provision located in Section L. Offerors are hereby notified that even if cost or pricing data are not initially requested in this solicitation, the Contracting Officer reserves the right to request such data if they are later found necessary pursuant to FAR 15.403-5(a)(1).

(g) Written questions requesting clarification. Offerors must submit all technical questions concerning this solicitation in writing to the Contract Specialist, Ms. Monica Burgio, via email at [mburgio@usbr.gov](mailto:mburgio@usbr.gov). All technical questions must be received no later than **July 17, 2017**, to allow Reclamation adequate time to prepare and issue responses prior to the date and time set for receipt of proposals. **ONLY WRITTEN QUESTIONS WILL RECEIVE A RESPONSE.** Each question submitted must reference the solicitation number (**R17PS00812**) and the specific page, paragraph, drawing, clause, provision or other definitive citation for which clarification is requested. Reclamation will provide written answers to all questions which may affect proposals via an amendment to the solicitation, which will be posted to FBO.gov and FedConnect.net.

**L.11 WBR TECHNICAL PROPOSAL INSTRUCTIONS – BUREAU OF APR 2001**  
**1452.215-82 RECLAMATION**

(a) General. The technical proposal shall be identified as Volume II of the offeror's proposal and shall be an orderly, specific, and complete document in every detail. It should be presented in a manner which allows it to “stand alone” without the need to reference other documents

(b) Use and Disclosure of Proposal Information. In accordance with the Use and Disclosure of Proposal Information -- Department of the Interior provision of this solicitation, offerors shall mark trade secret or confidential

commercial or financial information contained in the proposal with the restrictive legends specified. The offeror shall also clearly and separately mark all proprietary information (as defined in FAR 3.104-3) contained in the proposal with the restrictive legend "Proprietary Information."

(c) Format and Content. The following format shall be utilized in preparing the technical proposal:

- (1) **Table of Contents.** The Table of Contents shall list all sections of the technical proposal. Any future amendments, additions, and/or revisions to the proposal shall be included in an updated Table of Contents;
- (2) **Technical Factors.** The proposal shall include information on the following technical factors:

Factor 1. EXPERIENCE

Factor 2. MASTER PLAN

Factor 3. PAST PERFORMANCE

### **Factor 1. EXPERIENCE**

The Offeror shall furnish a list of its four (4) most recent Federal, State, local government or private sector (commercial) projects completed within the last seven (7) years that had critical completion timeframes and were similar in scope, complexity, and magnitude to the work required under this solicitation. List only those contracts that are comparable in scope or complexity (OR that have components of work that are comparable in complexity) to this solicitation, including pipe manufactured and installed in accordance with the allowable pipe options under Specification section 33 11 10. At a minimum, include the following information for each project:

- a. Name of project;
- b. Description of work and relevance to this project;
- c. Contract number (if applicable government award);
- d. Period of Performance;
- e. Name and address of the acquiring Government agency or commercial owner;
- f. Initial contract amount and final contract amount;
- g. Any problems encountered in performance of the work and corrective action(s) taken;
- h. Name(s), telephone number(s) and e-mail address(s) of references from the acquiring customer who may be contacted for further information.

The Government will consider a subcontractor's experience in addition to an Offeror's experience on a maximum of two (2) projects of the four (4) total projects required under this factor. For the Government to consider the relevance of a subcontractor's experience, the Offeror shall include a Letter of Commitment. The Letter of Commitment shall be signed by both the Offeror and subcontractor and shall demonstrate the commitment of both parties to this project.

Factor 1: Experience will be rated on a GO/NO-GO basis on the following minimum acceptability standard:

**Minimum Acceptability Standard:** Offeror demonstrates successful and comparable experience on four (4) total projects, including a minimum of two (2) as a prime contractor, within the last seven (7) years on projects that had

critical completion timeframes and were similar in scope, complexity, and magnitude to the work required under this solicitation GO/NO-GO

## **Factor 2. MASTER PLAN**

The offeror shall furnish a Master Plan for the project which at a minimum will address: key personnel, safety rating, and subcontracting strategies.

### **1) Key Personnel**

The Offeror shall provide information for the Project Manager, Project Superintendent, and Pipe Foreman that demonstrates sufficient experience to adequately plan, schedule and execute the specified work, as well as, to proactively address issues and problems that could arise during the project. Provide the following information for the proposed key personnel:

- a. Resume information, which includes previous jobsite responsibilities on major contracts for individuals who will occupy the key function on this project. An individual may be proposed for more than one key role. The resume information shall include:
  - i. Name and the role and responsibilities for each key personnel.
  - ii. Education, background, experience, certifications, accomplishments, and other pertinent information that demonstrates their suitability for the work assigned to them.
  - iii. Include project names, locations, dates, details, position occupied, and description of duties for qualifying experience.
  - iv. Contact information (telephone and email) for three references from previous contracts.
- b. Identification of the availability of key personnel and percent of time anticipated onsite for the duration of the project.
- c. The offeror shall include a statement of assurance that the proposed primary personnel will be available for the work under this solicitation and that in the event a person named as the primary is not available, that the proposed alternative (include full name and all relevant information as required above for the primary personnel) will be utilized. Any substitution of key personnel after award shall be subject to approval by the Government.

### **2) Safety**

The Offeror shall submit the following information:

- a. Average Experience Modification rate (EMR) on the offeror for work accomplished in the last three (3) years. This should be in the form of documentation from the offeror's insurance company.

The offeror's demonstrated safety history will be evaluated by the EMR ratings below. The offeror's EMR must be less than 1.05 or the offer will be considered unacceptable.

<b>EMR</b>	<b>RATING</b>
1.30 – 2.05	Poor
1.05 – 1.29	Inadequate
0.82 – 1.04	Fair

0.72 – 0.81	Effective
0.50 – 0.71	Superior

### 3) Subcontracting

The offeror shall provide a detailed approach to managing and monitoring subcontractor performance and quality and discuss their approach to meeting subcontracting goals. The contracting officer has determined the following minimum subcontracting goals (percentages of total planned subcontracting dollars) for this solicitation:

1. Small Businesses – 44.5%
2. Small Disadvantage Businesses – 5%
3. Woman-owned Small Businesses -- 5%
4. Historically Under Utilized Business Zone Small Businesses -- 3%
5. Service Disabled Veteran-owned Small Business -- 3%

#### **For Large Business Offerors:**

Identify, in terms of dollar value and percentage of total proposed price, the extent of work you will perform as the prime contractor. State the extent of work you plan to subcontract to large business, small business (SB), small disadvantaged business (SDB), women-owned small business (WOSB), HUBZone small business (HUBZone), and service-disabled veteran-owned small business (SDVOSB).

#### **For Small Business Offerors:**

Identify, in terms of dollar value and percentage of total proposed price, the extent of work you will perform as the prime contractor. State the extent of work you plan to subcontract to large business, small business (SB), small disadvantaged business (SDB), women-owned small business (WOSB), HUBZone small business (HUBZone), and service-disabled veteran-owned small business (SDVOSB).

#### **For Joint Ventures – Teaming Arrangements:**

If you are submitting an offer as a joint venture or a teaming arrangement, identify, for each member of your joint venture or team, whether the member is a large business, SB, SDB, WOSB, HUBZone, or SDVOSB; and the dollar value of the work to be performed by each member of your joint venture or team.

The Government will evaluate your joint venture or team as either a large business or small business based upon the information provided in subparagraph directly above.

Factor 2: Master Plan will be evaluated on a GO/NO-GO basis on the following minimum acceptability standard:

**Minimum Acceptability Standard:** Offeror's master plan clearly demonstrates 1) proposed primary and alternate key personnel through their education/training and experience has the necessary skills to perform each role for which the individual is proposed, including a statement of assurance that each individual will be available for the work under this solicitation, 2) Offeror has an EMR that is less than 1.05 and 3) Offeror proposes positive efforts and commitments to subcontract with SB, SDB, WOSB, HUBZone, and SDVOSB. GO/NO-GO

### **Factor 3. PAST PERFROMANCE**

The reference information provided for each project submitted under Factor 1: Experience may be used to evaluate past performance information. In addition, offerors should request Past Performance Questionnaires (PPQs) be completed by the offeror's previous customers for each project listed under Factor 1: Experience. The offeror should submit the PPQs to their references and have the references complete and return the questionnaires via email to [mburgio@usbr.gov](mailto:mburgio@usbr.gov) by the date and time indicated on the form. The PPQ is included in Section J, Attachment No. 6: Past Performance Questionnaire.

The Government will consider a subcontractor's past performance in addition to an Offeror's past performance on a maximum of two (2) projects of the four (4) total projects required under this factor. For the Government to consider the relevance of a subcontractor's past performance, the Offeror shall include a Letter of Commitment. The Letter of Commitment shall be signed by both the Offeror and subcontractor and shall demonstrate the commitment of both parties to this project.

The Government shall consider the information provided by the references and reserves the right to obtain information for use in the evaluation of past performance from any and all sources including sources outside the Government.

Factor 3: Past Performance will be evaluated on a GO/NO-GO basis on the following minimum acceptability standard:

**Minimum Acceptability Standard:** Government has a reasonable expectation that the offeror will successfully perform the required effort based upon offeror's past performance. GO/NO-GO

In accordance with FAR 15.305 (a) (2) (iv), offerors with no relevant past performance history, or for whom information on past performance is not available, will result in a neutral rating (i.e. not rated favorably or unfavorably). In the context of GO/NO-GO, neutral shall be considered GO.

**L.12 WBR PRICING PROPOSAL INSTRUCTIONS – BUREAU OF JAN 1998**  
**1452.215-83 RECLAMATION ALTERNATE I (JULY 1997)**  
**ALT I**

(a) General. The pricing proposal shall be identified as Volume III of the offeror's proposal and shall be an orderly, specific, and complete document in every detail. Offerors are hereby notified that even though certified cost or pricing data are not initially requested in this solicitation, the Contracting Officer reserves the right to request such data if they are later found necessary pursuant to FAR 15.403-5(a)(1).

(b) Use and Disclosure of Proposal Information. In accordance with the Use and Disclosure of Proposal Information -- Department of the Interior provision of this solicitation, offerors shall mark trade secret or confidential commercial or financial information contained in the proposal with the restrictive legends specified. The offeror shall also clearly and separately mark all proprietary information (as defined in FAR 3.104-3 contained in the proposal with the restrictive legend "Proprietary Information."

(c) Format and Content. To assist in the uniform evaluation of proposals, the following format shall be utilized in preparing the pricing proposal:

(1) Table of contents. The Table of Contents shall list all sections of the pricing proposal. Any modifications or revisions to the proposal, up to the date of agreement on price, shall include an updated Table of Contents;

(2) Enclosures. A list shall be included of all enclosures, attachments, tables, drawings, charts, and any other material which summarize data or information contained or referenced in the pricing proposal.

(3) Pricing proposal breakdown. The offeror shall submit the **Continuation of Section B-Supplies or Services and Price** with the proposed total prices/costs for each contract line item and proposed unit price(s), if required. In addition, a total proposed price consisting of the sum of all contract line items shall be submitted.

(d) Cost Information in Other Volumes. No cost information shall be included in any other volume of a proposal.

(e) Page Numbering. All pages in the cost proposal should be consecutively numbered (including pages with tables and exhibits). The offeror shall clearly identify all exhibits and supporting information.

(f) Rounding of Costs. All price or cost amounts proposed shall be expressed to the nearest whole dollar except for individual hourly labor rates (if required). All percentages shall be expressed to one decimal place.

(g) Alternate Proposals. If submission of alternate technical proposals is permitted by the General Proposal Instructions -- Bureau of Reclamation provision of this solicitation, the offeror shall submit a separate, detached pricing proposal conforming to the requirements of this provision for each alternate submitted. The alternate pricing proposal(s) shall be clearly labeled and identified.

(h) Electronic Information. The offeror shall complete the **Continuation of Section B in Excel Format** located in Section J. The data submitted shall comply with the restrictive legend requirements of paragraph (b) of this provision.

**L.13 WBR EMPLOYMENT VERIFICATION**  
**1452.222-81**

It is the contractor's responsibility to verify employment of its employees. FAR 9.406(b)(2) Causes for Debarment, specifically states, based on a determination by the Secretary of Homeland Security or the Attorney General of the United States, any contractor not in compliance with the INA is a cause for debarment.

**L.14 WBR NOTICE OF PROPOSED PARTNERING – BUREAU OF MAY 1994**  
**1452.233-82 RECLAMATION**

Reclamation policy is to try to resolve all contractual issues in controversy by mutual agreement through the use of an appropriate alternative disputes resolution process. Thus to most effectively complete the work required under the future contract, the Bureau of Reclamation proposes to mutually form a voluntary Partnering arrangement with the Contractor. This bilateral relationship would strive for mutual trust, dedication to common goals, and an understanding of each other's individual expectations and values. The expected benefits would include improved efficiency, cost effectiveness and innovation between all parties to ensure a quality deliverable that is completed on time and within budget. Any cost associated with implementing this Partnering arrangement will be agreed to by both parties and will be shared equally, with no change in contract price. Additional information on Partnering and suggested implementation procedures are contained in the Bureau of Reclamation "Partnering" guide book, that is available from the contracting officer.

**L.15 WBR INSTRUCTION FOR MOBILIZATION AND PREPARATORY MAY 2000**  
**1452.236-85 WORK SCHEDULE LINE ITEM – BUREAU OF**  
**RECLAMATION**

The Contracting Officer estimates that the Section B Mobilization and Preparatory Work schedule line item should not exceed 10 percent of the total bid price. Your attention is directed to contract clause WBR 1452.232-81 Payment for Mobilization and Preparatory Work, which reflects how the Government will pay for this line item, including how payment will be made when the price bid for this schedule line item is higher than the percentage stated herein.



## SECTION M – EVALUATION FACTORS FOR AWARD

### **M.1 52.225-12 NOTICE OF BUY AMERICAN ACT REQUIREMENT – MAY 2014 CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS**

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

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

(c) *Evaluation of offers.*

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

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

(d) *Alternate offers.*

(1) When an offer includes foreign construction material, other than designated country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-11, the offeror also may submit an alternate offer based on use of equivalent domestic or designated country construction material.

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

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material, and the offeror shall be required to furnish such domestic or designated country 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.

### **M.2 WBR EVALUATION FACTORS FOR AWARD – LOWEST PRICE MAY 2005 1452.215-88 TECHNICALLY ACCEPTABLE SOURCE SELECTION PROCESS – BUREAU OF RECLAMATION**

(a) Award will be made to the responsible offeror submitting the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost/price factors and any significant subfactors listed in this provision.

(b) Proposals shall be evaluated for acceptability, but not ranked, using the non-cost/price factors listed below. There shall be no trade-offs. Past performance shall be evaluated in accordance with FAR 15.305; however there shall be no comparative assessment of offerors' past performance. If the Contracting Officer determines that a small business' past performance is not acceptable, the matter shall be referred to the Small Business Administration for a Certificate of Competency determination, in accordance with the procedures contained in FAR Subpart 19.6 and 15 U.S.C. 637(b)(7). If a proposal is determined by the Contracting Officer to be "technically unacceptable" as a result of evaluating all factors other than cost or price, the proposal may be rejected from further consideration. **Since technical proposals are being solicited to obtain information to be used in the evaluation, the Government reserves the right to use information outside of the proposal to evaluate the capability of offerors and the value of offers.**

(c) Pursuant to FAR 15.305, a cost or price evaluation will be performed to determine the reasonableness of costs/prices proposed and the offeror's understanding of, and ability to perform, the prospective contract. All proposed prices will be reviewed for price reasonableness and any instances of unbalanced pricing.

(d) The following factors and acceptability standards for non-cost/price factors shall be considered in evaluating proposals and making the source selection:

### **Factor 1: Experience**

**Minimum Acceptability Standard:** Offeror demonstrates successful and comparable experience on four (4) total projects, including a minimum of two (2) as a prime contractor, within the last seven (7) years on projects that had critical completion timeframes and were similar in scope, complexity, and magnitude to the work required under this solicitation.

### **Factor 2: Master Plan**

**Minimum Acceptability Standard:** Offeror's master plan clearly demonstrates 1) proposed primary and alternate key personnel through their education/training and experience has the necessary skills to perform each role for which the individual is proposed, including a statement of assurance that each individual will be available for the work under this solicitation, 2) Offeror has an EMR that is less than 1.05 and 3) Offeror proposes positive efforts and commitments to subcontract with SB, SDB, WOSB, HUBZone, and SDVOSB.

### **Factor 3: Past Performance**

**Minimum Acceptability Standard:** Government has a reasonable expectation that the offeror will successfully perform the required effort based upon offeror's past performance. GO/NO-GO

In accordance with FAR 15.305 (a) (2) (iv), offerors with no relevant past performance history, or for whom information on past performance is not available, will result in a neutral rating (i.e. not rated favorably or unfavorably). In the context of GO/NO-GO, neutral shall be considered GO.

## **M.3 WBR NOTICE OF WORLD TRADE ORGANIZATION GOVERNMENT MAY 2005 1452.225-82 PROCUREMENT AGREEMENT EVALUATIONS – BUREAU OF RECLAMATION**

In accordance with the Agreement on Government Procurement, as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), and other trade agreements, FAR Subpart 25.4, World Trade Organization Government Procurement Agreement, applies to Bureau of Reclamation acquisitions. In order to apply trade agreements unique to Reclamation, the contracting officer will (irrespective of any other provision or clause of this solicitation) evaluate acquisitions at or above the dollar thresholds listed in FAR 25.402(b) without regard to the restrictions of the Buy American Act.

