

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>			1. CONTRACT ID CODE	PAGE OF PAGES 1 59
2. AMENDMENT/MODIFICATION NUMBER A007	3. EFFECTIVE DATE 04/01/2017	4. REQUISITION/PURCHASE REQUISITION NUMBER	5. PROJECT NUMBER (If applicable)	
6. ISSUED BY CODE	7. ADMINISTERED BY (If other than Item 6) CODE			
Customs and Border Protection (CBP) 1331 Pennsylvania Avenue, NW National Place, Suite 1355 Washington DC 20229				
8. NAME AND ADDRESS OF CONTRACTOR (Number, street, county, State and ZIP Code) Offerors		(X)	9A. AMENDMENT OF SOLICITATION NUMBER HSBP1017R0023	
		(X)	9B. DATED (SEE ITEM 11) 03/17/2017	
			10A. MODIFICATION OF CONTRACT/ORDER NUMBER	
			10B. DATED (SEE ITEM 13)	
CODE	FACILITY CODE			

**11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS**

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers  is extended.  is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing items 8 and 15, and returning \_\_\_\_\_ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or electronic communication which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by letter or electronic communication, provided each letter or electronic communication makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

**13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.  
IT MODIFIES THE CONTRACT/ORDER NUMBER AS DESCRIBED IN ITEM 14.**

CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NUMBER IN ITEM 10A.
<input type="checkbox"/>	
<input type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
<input type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
<input type="checkbox"/>	D. OTHER (Specify type of modification and authority)

**E. IMPORTANT:** Contractor  is not  is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

The purpose of this Amendment is to incorporate revisions to the solicitation that were made as a result of the answers to questions. The revised documents include:

- Sections A - M
- Attachment 1, Statement of Work

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)		
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
_____ (Signature of person authorized to sign)		_____ (Signature of Contracting Officer)	

Previous edition unusable

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## **Section A Continuation - Solicitation/Contract Form SF 1442 Construction Design/Build**

SF1442, Block 13a: Offerors shall follow the submittal instructions in Section L of this solicitation to respond to both Phase I - Concept Papers/Request for Qualifications and Phase II - Request for Proposals.

This acquisition will result in the award of multiple IDIQ contracts for the construction of an "Other Border Wall Prototype" with the capacity to issue future task orders for construction along the American-Mexican border. This acquisition is separate and apart from solicitation HSBP1017R0022 for the "Solid Concrete Border Wall Prototype," which is for the acquisition of a prototype using solid concrete materials, in addition to future possible construction along the American-Mexican border.

The performance period of each IDIQ contract shall be five (5) years from date of award with the sum total value of all awarded contracts having a maximum order limit of \$300,000,000.

The Government will make the award of each IDIQ contract and the first task order (TO) simultaneously. The first TO award will be for the design and build of the "Other Border Wall Prototype" and Mock-ups (collectively, Prototype) in accordance with the Statement of Work. Award of the Prototype will satisfy the minimum guarantee of the IDIQ contract.

Pursuant to FAR 52.232-18, Availability of Funds, the Government's obligation under this solicitation, or any contract or TO that might result from the solicitation is entirely subject to, and contingent upon, the availability of appropriated funds. No legal liability on the part of the Government shall arise until funds are made available to the Contracting Officer and a TO is awarded by the Contracting Officer. Any offeror proposing on this solicitation does so at its own cost and with the full knowledge that a contract or TO for the Prototype project might not result from this solicitation.

After award of the IDIQ and Prototype TO, the successful IDIQ contractors will all compete for future TOs based upon the evaluation factors set forth in the TO RFPs. Only the successful IDIQ awardees shall be allowed to compete for future TOs under these IDIQs. IDIQ contract holders are expected to submit a proposal for all future TO RFPs received from the Government. However, in the event an awardee is unable to submit a proposal on a particular TO RFP, the contractor is required to notify, in writing, the Contracting Officer who issued the TO RFP within five (5) working days from receipt of the RFP. An awardee can only elect to withdraw from submitting a proposal on three (3) TO RFPs during a 365 calendar day period. Withdrawal requests in excess three (3) in a 365 calendar day period may result in the Government terminating a contractor's IDIQ contract for default.

### **Task and Delivery Order Ombudsman (Feb 2008)**

The individual named below has been appointed as the Task and Delivery Order Ombudsman for the U.S. Customs and Border Protection (CBP).

The Task and Delivery Order Ombudsman will review complaints from contractors and ensure they are afforded a fair opportunity to be considered for task or delivery orders, consistent with the procedures contained in this indefinite quantity contract.

Name: To Be Determined (TBD) at Task Order level  
Address: U.S. Customs and Border Protection  
Procurement Directorate  
1300 Pennsylvania Avenue, NW.  
Suite 1310 National Place  
Washington, D.C. 20229  
Email: TBD at Task Order level

[END OF SECTION A]

## Section B – Schedule

### Schedule B – Pricing Schedule

The following shall only be completed by those Offerors invited to submit Phase II proposals. Please see the “Phased Evaluation Approach” instructions in Section L for further details.

Pricing shall not be provided for the Phase I concept paper/request for qualifications submission.

#### Phase II: “Other Border Wall Prototype”

CLIN	Description	QTY	Unit	Unit Price	CLIN Price
0001	Prototype	1	LOT	\$	\$
0002	Design (As-Built)	1	LOT	\$	\$
0003	Mock-up (including disposal)	1	LOT	\$	\$
0004	Optional CLIN – Prototype Demolition	1	LOT	\$	\$
	<b>Total Price</b>				\$

#### See Attachment#2 (Supporting Price Details Spreadsheet)

In addition to the above Schedule B, Offerors shall complete Attachment #2 (Supporting Price Details Spreadsheet) for its prototype in accordance with the pricing instructions incorporated in the attachment as part of the Phase II proposals.

Pricing information provided and evaluated during Phase II will apply only to the initial (Prototype) TO. Future TOs will be priced in accordance with TO RFPs using labor rates at or above prevailing wage determinations consistent with FAR 52.222-6.

#### Prototype Range

The estimated price range for the “Other Border Wall Prototype” is between \$200,000 and \$500,000.

#### Contract Minimum & Maximum

The Prototype TO is the minimum guarantee per IDIQ award. Each IDIQ contract will have a maximum contract value not to exceed \$300,000,000.

[END OF SECTION B]

## Section C - Description/Specification

### **Specifications, Statement of Work, or Statement of Objectives Attached (Mar 2003)**

The Specifications, Statement of Work, or Statement of Objectives which describe the work to be performed hereunder, although attached, is incorporated and made a part of this document with the same force and effect of "specifications" as described in the clause, Order of Precedence, FAR 52.215-8 incorporated herein by reference.

### **Description of Work:**

- (a) Cost Range: the Prototype TO is the minimum guarantee per the IDIQ award requirement with each IDIQ contract having a maximum contract value not to exceed \$300,000,000.
- (b) NAICS Code: **236220**
- (c) Statement of Work: "Other Border Wall and Prototype IDIQ Design Build Contract"
- (d) The Contractor shall furnish all labor, material, equipment, supervision, etc. necessary to complete the requirements of this contract in accordance with this this solicitation/contract, and all applicable Federal, State, and Local laws, regulations, specifications, codes, certifications, etc., to whichever is most stringent.

See Attachment #1 for Statement of Work.

[END OF SECTION C]

## Section D - Packaging and Marking

### **Packaging, Packing and Marking (Mar 2003)**

Material shall be packaged, packed and marked for shipment in such a manner that will insure acceptance by common carriers and safe delivery at destination. Packages shall be clearly identified on the outer wrapping with the contract number and delivery/task order number, if applicable.

The TO RFP may provide added requirements, as applicable.

[END OF SECTION D]

**Section E - Inspection and Acceptance**

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

**52.246-12 - Inspection of Construction (Aug 1996)**

**52.246-13 – Inspection-Dismantling, Demolition, or Removal of Improvements (Aug 1996)**

[END OF SECTION E]



## Section F - Deliveries or Performance

### I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

#### **52.211-13 - Time Extensions (Sep 2000)**

#### **52.242-14 - Suspension of Work (Apr 1984)**

#### **52.211-10 - Commencement, Prosecution, and Completion of Work (Apr 1984)**

The Contractor shall be required to:

- (a) commence work on the TO within one (1) calendar day after the date the Contractor receives the Notice to Proceed (NTP).
- (b) prosecute the work diligently, and
- (c) complete the entire work ready for use in accordance with the requirements as stated in the awarded TO.

#### **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 as defined within the RFP (per TO – no liquidated damages identified for the initial task order; TO RFPs will identify liquidated damages for future task orders) 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.

#### **Period of Performance (Mar 2003)**

The period of performance of this contract shall be five (5) years from Date of Award. Each task order issued under this contract will include its own period of performance.

#### **Federal Holiday Closure (Mar 2003)**

The following Federal Legal Holidays are observed under this contract, and the contractor will not be able to perform work on these days. Any of the holidays falling on a Saturday will be observed on the preceding Friday. Holidays falling on a Sunday will be observed on the following Monday:

New Year’s Day – 1 <sup>st</sup> of January	Labor Day – 1 <sup>st</sup> Monday in September
Martin Luther King’s Birthday - 3 <sup>rd</sup> Monday in January	Columbus Day - 2 <sup>nd</sup> Monday in October
President’s Day – 3 <sup>rd</sup> Monday in February	Veterans Day – 11 <sup>th</sup> of November
Memorial Day - Last Monday in May	Thanksgiving Day – 4 <sup>th</sup> Thursday in November
Independence Day – 4 <sup>th</sup> of July	Christmas Day – 25 <sup>th</sup> of December

[END OF SECTION F]

## **Section G - Contract Administration Data**

### **Contracting Officer's Authority (Mar 2003)**

The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract. In the event the Contractor effects any changes at the direction of any person other than the Contracting Officer, the changes will be considered to have been made without authority and no adjustment will be made in the contract price to cover any increase in costs incurred as a result thereof. The Contracting Officer shall be the only individual authorized to accept nonconforming work, waive any requirement of the contract, or to modify any term or condition of the contract.

The Contracting Officer is the only individual who can legally obligate Government funds. No cost chargeable to the proposed contract can be incurred before receipt of a fully executed contract or specific authorization from the Contracting Officer.

### **Submission of Invoices**

Copies of invoices will be submitted to the CO and COR by e-mail. To constitute a proper invoice, the invoice shall include all the items required by FAR 32.905 and the invoice shall be accompanied by a Progress Report form (sample to be provided after award or the contractor may provide an equivalent Progress Report form with approval from the CO), if applicable; and the employee wage payrolls shall be up-to-date.

Once the COR and CO approves of the submitted invoice, the contractor shall comply with the following electronic invoicing process:

### **Electronic Invoicing and Payment Requirements – Invoice Processing Platform (IPP) (Jan 2016)**

Payment requests for all new awards must be submitted electronically through the U. S. Department of the Treasury's Invoice Processing Platform System (IPP). Payment terms for existing contracts and orders awarded prior to April 11, 2016 remain the same. The Contractor must use IPP for contracts and orders awarded April 11, 2016 or later, and must use the non-IPP invoicing process for those contracts and orders awarded prior to April 11, 2016.

"Payment request" means any request for contract financing payment or invoice payment by the Contractor. To constitute a proper invoice, the payment request must comply with the requirements identified in FAR 32.905(b), "Payment documentation and process" and the applicable Prompt Payment clause included in this contract. The IPP website address is: <https://www.ipp.gov>.

Under this contract, the following documents are required to be submitted as an attachment to the IPP:

1. Hard Copy of the Invoice

Note: If applicable, all Davis Bacon Payrolls must be submitted and approved by CO before submitting an invoice in IPP.

The IPP was designed and developed for Contractors to enroll, access and use IPP for submitting requests for payment. Contractor assistance with enrollment can be obtained by contacting [IPPCustomerSupport@fms.treas.gov](mailto:IPPCustomerSupport@fms.treas.gov) 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.

[END OF SECTION G]

## Section H - Special Contract Requirements

### 3052.215-70 Key Personnel or Facilities (Dec 2003)

(a) The personnel or facilities specified below are considered essential to the work being performed under this contract and may, with the consent of the contracting parties, be changed from time to time during the course of the contract by adding or deleting personnel or facilities, as appropriate.

(b) Before removing or replacing any of the specified individuals or facilities, the Contractor shall notify the Contracting Officer, in writing, before the change becomes effective. The Contractor shall submit sufficient information to support the proposed action and to enable the Contracting Officer to evaluate the potential impact of the change on his contract. The Contractor shall not remove or replace personnel or facilities until the Contracting Officer approves the change.

The Key Personnel or Facilities under this Contract are:

Contractor's Construction Superintendent  
Contractor's Project Manager  
Contractor's Lead Designer

However, additional Key Personnel may be added at the task order level per the TO RFP.

### Disclosure of Information (Mar 2003)

(a) General: Any information made available to the Contractor by the Government shall be used only for the purpose of carrying out the provisions of this contract and shall not be divulged or made known in any manner to any persons, except as may be necessary in the performance of the contract.

(b) Technical Data Rights: The Contractor shall not use, disclose, reproduce, or otherwise divulge or transfuse to any persons any technical information or data licensed for use by the Government that bears any type of restrictive or proprietary legend except as may be necessary in the performance of the contract. Refer to the Rights in Data clause for additional information.

(c) Privacy Act: In performance of this contract the Contractor assumes the responsibility for protection of the confidentiality of all Government records and/or protected data provided for performance under the contract and shall ensure that (a) all work performed by any subcontractor is subject to the disclosure restrictions set forth above and (b) all subcontract work be performed under the supervision of the Contractor or their employees.

### Post Award Evaluation of Contractor Performance (Jul 2014)

#### A. Contractor Performance Evaluations

Interim and final performance evaluation reports will be prepared on this contract or order in accordance with FAR Subpart 42.15. A final performance evaluation report will be prepared at the time the work under this contract or order is completed. In addition to the final performance evaluation report, an interim performance evaluation report will be prepared annually to coincide with the anniversary date of the contract or order. Interim and final performance evaluation reports will be provided to the contractor via the Contractor Performance Assessment Reporting System (CPARS) after completion of the evaluation. The CPARS Assessing Official Representatives (AORs) will provide input for interim and final contractor performance evaluations. The AORs may be Contracting Officer's Representatives (CORs), project managers, and/or contract specialists. The CPARS Assessing Officials (AOs) are the contracting officers (CO) or contract specialists (CS) who will sign the evaluation report and forward it to the contractor representative via CPARS for comments.

The contractor representative is responsible for reviewing and commenting on proposed ratings and remarks for all evaluations forwarded by the AO. After review, the contractor representative will return the evaluation to the AO via CPARS.

The contractor representative will be given up to fourteen (14) days to submit written comments or a rebuttal

statement. Within the first seven (7) calendar days of the comment period, the contractor representative may request a meeting with the AO to discuss the evaluation report. The AO may complete the evaluation without the contractor representative's comments if none are provided within the fourteen (14) day comment period. Any disagreement between the AO/CO and the contractor representative regarding the performance evaluation report will be referred to the Reviewing Official (RO) within the division/branch the AO is assigned. Once the RO completes the review, the evaluation is considered complete and the decision is final. Copies of the evaluations, contractor responses, and review comments, if any, will be retained as part of the contract file and may be used in future award decisions.

B. Designated Contractor identify a primary representative for this contract and provide the full name, title, phone number, email address, and business address to the CO within 30 days after award.

C. Electronic Access to Contractor Performance Evaluations

The AO will request CPARS user access for the contractor by forwarding the contractor's primary and alternate representatives' information to the CPARS Focal Point (FP).

The FP is responsible for CPARS access authorizations for Government and contractor personnel. The FP will set up the user accounts and will create system access to CPARS.

The CPARS application will send an automatic notification to users when CPARS access is granted. In addition, contractor representatives will receive an automated email from CPARS when an evaluation report has been completed.

#### **Government Consent of Publication/Endorsement (Mar 2003)**

Under no circumstances shall the Contractor, or anyone acting on behalf of the Contractor, refer to the supplies, services, or equipment furnished pursuant to the provisions of this contract in any news release or commercial advertising without first obtaining explicit written consent to do so from the Contracting Officer.

The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Federal Government or is considered by the Government to be superior to other products or services.

#### **Ordering Procedures**

Ordering of design and build services under this contract shall be accomplished through the issuance of written fixed price task orders.

In accordance with FAR 16.505(b)(1), the Contracting Officer will ensure that all Contractors (IDIQ contract holders) receive a fair opportunity to compete for task orders issued under this contract. When there is a requirement for a task order to be fulfilled, the Government will issue a Request for Proposals (RFP) to all Contractors under the IDIQ contract. Each TO RFP will define and include the requirements, proposal instructions, evaluation criteria, and clauses unique to the award of the individual task order, including an explicit designation of the applicable FAR Part 25 clauses. Unless otherwise specified, all applicable clauses in the IDIQ contract shall apply at the task order level,

The TO RFPs will define the bonding requirements for each task order. Future TO RFPs will require Offerors to bond for the full value of the awarded task orders in accordance with the values set forth in FAR 52.216-9, "Order Limitation." All offerors shall be able to bond for the full value of any future task order to be considered eligible for award of such task order(s) under the IDIQ contract.

After the Government has completed an evaluation of the submitted proposals, the CO may conduct discussions with the Contractors, as needed, to resolve and/or understand any concerns within their RFP proposals. Following any discussions with the Contractors, the CO will issue a written task order to the Contractor who provides the best value to the Government, as defined in each task order.

All task orders issued under this contract shall conform to the provisions of the contract clauses FAR 52.216-18 "Ordering," and FAR 52.216-9, "Order Limitation," contained in the contract.

The only office(s) authorized to issue task orders under this contract are:

U.S. Customs and Border Protection  
Office of Acquisition

[END OF SECTION H]

## Section I - Contract Clauses

### **52.252-2 - Clauses Incorporated by Reference (Feb 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these addresses: <http://farsite.hill.af.mil/vffara.htm> and <http://farsite.hill.af.mil/vfhsara.htm>

**52.202-1 - Definitions (Nov 2013)**

**52.203-3 - Gratuities (Apr 1984)**

**52.203-5 - Covenant Against Contingent Fees (May 2014)**

**52.203-6 - Restrictions on Subcontractor Sales to the Government (Sep 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 (Oct 2010)**

**52.203-13 - Contractor Code of Business Ethics and Conduct (Oct 2015)**

**52.203-14 - Display of Hotline Poster(s) (Oct 2015)**

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

**52.203-19- Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)**

**52.204-4 - Printed or Copied Double-Sided on Recycled Paper (May 2011)**

**52.204-9 - Personal Identity Verification of Contractor Personnel (Jan 2011)**

**52.204-10 – Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2016)**

**52.204-13 - System for Award Management Maintenance (Oct 2016)**

**52.204-15 - Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016)**

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

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

**52.209-10 - Prohibition on Contracting With Inverted Domestic Corporations (Nov 2015)**

**52.210-1 - Market Research (Apr 2011)**

**52.215-2 – Audit and Records - Negotiation (Oct 2010)**

**52.215-8 - Order of Precedence - Uniform Contract Format (Oct 1997)**

**52.219-4 - Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014)**

**52.219-8 - Utilization of Small Business Concerns (Jan 2011)**

**52.219-9 - Small Business Subcontracting Plan (Jan 2017)**

**52.219-16 - Liquidated Damages -- Subcontracting Plan (Jan 1999)**

**52.219-28 - Post-Award Small Business Program Representation (Jul 2013)**

**52.222-1 - Notice to the Government of Labor Disputes (Feb 1997)**

**52.222-3 - Convict Labor (June 2003)**

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

**52.222-6 - Construction Wage Rate Requirements (May 2014)**

**52.222-7 - Withholding of Funds (May 2014)**

**52.222-8 - Payrolls and Basic Records (May 2014)**

**52.222-9 - Apprentices and Trainees (Jul 2005)**

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

**52.222-11 - Subcontracts (Labor Standards) (May 2014)**

**52.222-12 - Contract Termination -- Debarment (May 2014)**

**52.222-13 - Compliance with Construction Wage Rate Requirements and Related Regulations (May 2014)**

**52.222-14 - Disputes Concerning Labor Standards (Feb 1988)**

**52.222-15 - Certification of Eligibility (May 2014)**

**52.222-21 - Prohibition of Segregated Facilities (Apr 2015)**

**52.222-26 - Equal Opportunity (Sep 2016)**

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

- 52.222-35 - Equal Opportunity for Veterans (Oct 2015)
- 52.222-36 - Equal Opportunity for Workers with Disabilities (Jul 2014)
- 52.222-37 - Employment Reports on Veterans (Feb 2016)
- 52.222-40 - Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)
- 52.222-50 - Combating Trafficking in Persons (Mar 2015)
- 52.222-54 - Employment Eligibility Verification (Oct 2015)
- 52.222-55 - Minimum Wages Under Executive Order 13658 (Dec 2015)
- 52.222-60 - Paycheck Transparency (Executive Order 13673 (Oct 2016)
- 52.222-62 - Paid Sick Leave Under Executive Order 13706 (Jan 2017)
- 52.223-1 - Biobased Product Certification (May 2012)
- 52.223-2 - Affirmative Procurement of Biobased Products Under Service And Construction Contracts (Sep 2013)
- 52.223-3 - Hazardous Material Identification and Material Safety Data (Jan 1997)
- 52.223-5 - Pollution Prevention and Right-to-Know Information (May 2011)
- 52.223-6 - Drug-Free Workplace (May 2001)
- 52.223-11 - Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016)
- 52.223-18 - Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011)
- 52.223-21 - Foams (Jun 2016)
- 52.223-22 - Public Disclosure of Greenhouse Gas Emissions and Reduction Goals, Representation (Dec 2016)
- 52.227-1 - Authorization and Consent (Dec 2007)
- 52.227-2 - Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2007)
- 52.227-4 - Patent Indemnity -- Construction Contracts (Dec 2007)
- 52.227-17 - Rights in Data - Special Works (Dec 2007)
- 52.227-23 - Rights to Proposal Data (Technical) (Jun 1987)
- 52.228-2 - Additional Bond Security (Oct 1997)
- 52.228-5 - Insurance -- Work on a Government Installation (Jan 1997)
- 52.228-11 - Pledges of Assets (Jan 2012)
- 52.228-12 - Prospective Subcontractor Requests for Bonds (May 2014)
- 52.228-14 - Irrevocable Letter of Credit (Nov 2014)
- 52.228-15 - Performance and Payment Bonds -- Construction (Oct 2010)
- 52.229-3 - Federal, State, and Local Taxes (Feb 2013)
- 52.232-5 - Payments under Fixed-Price Construction Contracts (May 2014)
- 52.232-16 - Progress Payments (Apr 2012)
- 52.232-17 - Interest (May 2014)
- 52.232-18 - Availability of Funds (Apr 1984)
- 52.232-23 - Assignment of Claims (May 2014)
- 52.232-27 - Prompt Payment for Construction Contracts (Jan 2017)
- 52.232-33 - Payment by Electronic Funds Transfer - System for Award Management (Jul 2013)
- 52.232-39 - Unenforceability of Unauthorized Obligations (Jun 2013)
- 52.232-40 - Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)
- 52.233-1 - Disputes, Alternate I (Dec 1991)
- 52.233-3 - Protest after Award (Aug. 1996)
- 52.233-4 - Applicable Law For Breach Of Contract Claim (Oct 2004)
- 52.236-2 - Differing Site Conditions (Apr 1984)
- 52.236-3 - Site Investigation and Conditions Affecting the Work (Apr 1984)
- 52.236-5 - Material and Workmanship (Apr 1984)
- 52.236-6 - Superintendence by the Contractor (Apr 1984)
- 52.236-7 - Permits and Responsibilities (Nov 1991)
- 52.236-8 - Other Contracts (Apr 1984)
- 52.236-9 - Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (Apr 1984)
- 52.236-10 - Operations and Storage Areas (Apr 1984)
- 52.236-11 - Use and Possession Prior to Completion (Apr 1984)
- 52.236-12 - Cleaning Up (Apr 1984)
- 52.236-13 - Accident Prevention (Nov 1991)

- 52.236-15 - Schedules for Construction Contracts (Apr 1984)**
- 52.236-17 - Layout of Work (Apr 1984)**
- 52.236-23 - Responsibility of the Architect-Engineer Contractor (Apr 1984)**
- 52.236-25 - Requirements for Registration of Designers (Jun 2003)**
- 52.236-26 - Preconstruction Conference (Feb 1995)**
- 52.236-27 - Site Visit (Construction) (Feb 1995)**
- 52.236-28 - Preparation of Offers-Construction (Oct 1997)**
- 52.242-13 - Bankruptcy (Jul 1995)**
- 52.242-14 - Suspension of Work (Apr 1984)**
- 52.243-4 - Changes (Jun 2007)**
- 52.244-6 - Subcontracts for Commercial Items (Jan 2017)**
- 52.246-21 - Warranty of Construction (Mar 1994)**
- 52.248-3 - Value Engineering - Construction (Oct 2015)**
- 52.249-2 - Termination for Convenience of the Government (Fixed- Price) (April 2012), Alternate I (Sep 1996)**
- 52.249-10 - Default (Fixed-Price Construction) (Apr 1984)**
- 52.253-1 - Computer Generated Forms (Jan 1991)**
- 3052.203-70 - Instructions for Contractor Disclosure of Violations (Sep 2012)**
- 3052.204-71 - Contractor Employee Access (Sep 2012) - Alternate II (Jun 2006)**
- 3052.205-70 - Advertisements, Publicizing Awards, and Releases, Alt I (Sep 2012)**
- 3052.219-70 - Small Business subcontracting plan reporting (Jun 2006)**
- 3052.219-71 - DHS Mentor-Protégé Program (Jun 2006)**
- 3052.222-70 - Strikes or Picketing Affecting Timely Completion of the Contract Work (Dec 2003)**
- 3052.222-71 - Strikes or Picketing Affecting Access to DHS Facility (Dec 2003)**
- 3052.228-70 - Insurance (Dec 2003)**
- 3052.242-72 - Contracting Officer's Technical Representative (Dec 2003)**

**52.204-21 - Basic Safeguarding of Covered Contractor Information Systems (Jun 2016)**

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

“Covered contractor information system” means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

“Federal contract information” means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public Web sites) or simple transactional information, such as necessary to process payments.

“Information” means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

“Information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

“Safeguarding” means measures or controls that are prescribed to protect information systems.

(b) Safeguarding requirements and procedures.

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.



- (viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.
- (ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
- (x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.
- (xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
- (xii) Identify, report, and correct information and information system flaws in a timely manner.
- (xiii) Provide protection from malicious code at appropriate locations within organizational information systems.
- (xiv) Update malicious code protection mechanisms when new releases are available.
- (xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.
- (2) *Other requirements.* This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.
- (c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

#### **52.216-18 Ordering (Oct 1995)**

- (a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from the date of contract award through the contract completion date.
- (b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.
- (c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

#### **52.216-19 Order Limitations (Oct 1995)**

- (a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than \$100,000.00 per task order, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.
- (b) *Maximum order.* The Contractor is not obligated to honor--
  - (1) Any order for a single item in excess of \$275,000,000.00;
  - (2) Any order for a combination of items in excess of \$275,000,000.00; or
  - (3) A series of orders from the same ordering office within 10 days that together call for quantities exceeding the limitation in paragraph (b) (1) or (2) of this section.
- (c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.
- (d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 2 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

**52.216-22 Indefinite Quantity (Oct 1995)**

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

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

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

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after the contract completion date.

**52.225-9 -- Buy American-Construction Materials (May 2014) (Applicable to a TO valued at less than \$7,358,000.00)**

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

"Commercially available off-the-shelf (COTS) item"—

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

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

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

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

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

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

"Cost of components" means--

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

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

"Domestic construction material" means—

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

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

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

(ii) The construction material is a COTS item.

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

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

(b) *Domestic preference.*

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

(2) This requirement does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows: NONE

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

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than **25 percent**;

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

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

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

(1)

(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including--

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

(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>			
<b>Foreign construction material</b>			
<b>Domestic construction material</b>			
<i>Item 2</i>			
<b>Foreign construction material</b>			

<b>Domestic construction material</b>			
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[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).]

**52.225-11 - Buy American - Construction Materials under Trade Agreements (Oct. 2016), Alternate I (May 2014) (Applicable to a TO valued at \$7,358,000.00 or more, but less than \$10,079,365)**

(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.

(b) “Bahrainian, Mexican, or Omani construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of Bahrain or Mexico; or  
 (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain or Mexico 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 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and all the Free Trade Agreements except the Bahrain FTA, NAFTA, and the Oman FTA apply to the this acquisition. Therefore, the Buy American statute restrictions are waived for designated country construction materials other than Bahrainian, Mexican, or Omani construction materials.

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

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

NONE for the initial task order. For future task orders, any excepted materials and/or components will be designated in future TO RFPs.

(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 **25 percent**;

(ii) The application of the restriction of the Buy American Act 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).]

**52.225-11 Buy American—Construction Materials under Trade Agreements (Oct 2016) (Applicable to a TO valued at \$10,079,365 or more)**

(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.

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

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

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

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

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

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

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

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

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

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

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

(b) Construction materials.

(1) This clause implements [41 U.S.C. chapter 83](#), by providing a preference for domestic construction material. In accordance with [41 U.S.C. 1907](#), the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR [12.505\(a\)\(2\)](#)). 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:



NONE for the initial task order. For future task orders, any excepted materials and/or components will be designated in future TO RFPs.

(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 **25 percent**;

(ii) The application of the restriction of the Buy American Act 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**

<b>Construction Material Description</b>	<b>Unit of Measure</b>	<b>Quantity</b>	<b>Price (Dollars)*</b>
--	------------------------	-----------------	-------------------------

*Item 1:*

Foreign construction material	_____	_____	_____
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Domestic construction material \_\_\_\_\_

Item 2:

Foreign construction material \_\_\_\_\_

Domestic construction material \_\_\_\_\_

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

[Include other applicable supporting information.]

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

**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 25% 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.

**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 site investigations N/A.

(b) Weather conditions N/A.

(c) Transportation facilities N/A.

(d) Per TO RFP, as applicable. No physical data is being provided for the initial task order. Physical data being provided for any future task orders will be provided, as applicable, in future TO RFPs.

**52.236-21 - Specifications and Drawings for Construction (Feb 1997), Alternate II (Apr 1984)**

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words “directed”, “required”, “ordered”, “designated”, “prescribed”, or words of like import are used, it shall be understood that the “direction”, “requirement”, “order”, “designation”, or “prescription”, of the Contracting Officer is intended and similarly the words “approved”, “acceptable”, “satisfactory”, or words of like import shall mean “approved by,” or “acceptable to”, or “satisfactory to” the Contracting Officer, unless otherwise expressly stated.

(c) Where “as shown,” as indicated”, “as detailed”, or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word “provided” as used herein shall be understood to mean “provide complete in place,” that is “furnished and installed”.

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail

(1) the proposed fabrication and assembly of structural elements, and

(2) the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract.

The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

Upon completing the work under this contract, the Contractor shall furnish 3 sets of prints of all shop drawings as finally approved. These drawings shall show changes and revisions made up to the time the equipment is completed and accepted.

[END OF SECTION I]

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

- Attachment #1: Statement of Work
- Attachment #2: Supporting Price Details Spreadsheet
- Attachment #3: Past Performance Reference Questionnaire
- Attachment #4: CBP Subcontracting Plan Template
- Attachment #5: Wage Determination (for the prototype)
- Attachment #6: SF-24 (Bid Bond)
- Attachment #7: SF-25 (Payment and Performance Bonds)
- Attachment #8: Project Performance Survey

[END OF SECTION J]

## Section K-Representation, Certifications, and Other Statement of Offerors and Respondents

### 52.252-1 -- Solicitation Provisions Incorporated by Reference (Feb 1998)

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

### 52.204-16 - Commercial and Government Entity Code Reporting (Jul 2016)

### 52.204-19 - Incorporation by Reference of Representations and Certifications (Dec 2014)

### 52.204-22 - Alternative Line Item Proposal (Jan 2017)

### 52.216-27 - Single or Multiple Awards (Oct 1995)

### 52.232-13 - Notice of Progress Payments (Apr 1984)

### 52.204-8 - Annual Representations and Certifications (Jan 2017)

(a)

(1) The North American Industry classification System (NAICS) code for this acquisition is 236220.

(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 certification in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

(i) Paragraph (d) applies.

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

(c)

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

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

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

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

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

(ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.

This provision applies to solicitations expected to exceed \$150,000.

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

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

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

(B) Exceed the simplified acquisition threshold; and

- (C) Are for contracts that will be performed in the United States or its outlying areas.
- (v) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation.
- (vi) 52.209-5; Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.
- (vii) 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.
- (viii) 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.
- (ix) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.
- (x) 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.
- (xi) 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.
- (xii) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.
- (xiii) 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.
- (xiv) 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.
- (xv) 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.
- (xvi) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA- designated items.
- (xvii) 52.225-2, Buy American Certificate. This provision applies to solicitations containing the clause at 52.225-1.
- (xviii) 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 \$79,507 or more but is less than \$100,000, the provision with its Alternate III applies.
- (xix) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.
- (xx) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan--Certification. This provision applies to all solicitations.
- (xxi) 52.225-25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certification. This provision applies to all solicitations.
- (xxii) 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:  
N/A (i) 52.204-17, Ownership or Control of Offeror.

N/A (ii) 52.204-20, Predecessor of Offeror.

N/A (iii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.

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

N/A (v) 52.222-52 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services--Certification.

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

N/A (vii) 52.227-6, Royalty Information.

N/ (A) Basic.

N/A (B) Alternate I.

N/A (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 Web site accessed through <https://www.acquisition.gov> . After reviewing the SAM database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause	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.

**52.209-7 - Information Regarding Responsibility Matters (Jul 2013)**

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

“Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative 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 FAPIS as required through maintaining an active registration in the System for Award Management database via <https://www.acquisition.gov> (see 52.204-7).

#### **52.209-12 - Certification Regarding Tax Matters (Feb 2016)**

- (a) This provision implements section 523 of Division B of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts.
- (b) If the Offeror is proposing a total contract price that will exceed \$5,000,000 (including option), the Offeror shall certify that, to the best of its knowledge and belief, it—
  - (1) Has  filed all Federal tax returns required during the three years preceding the certification;
  - (2) Has not  been convicted of a criminal offense under the Internal Revenue Code of 1986; and
  - (3) Has not , more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

#### **52.225-10 - Notice of Buy American Act Requirement - Construction Materials (May 2014)**

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

(B) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American statute shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225-9.

(C) *Evaluation of offers.*

- (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR 52.225-9.
- (2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on



unreasonable cost.

*(D) Alternate offers.*

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

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

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

- (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
- (ii) May be accepted if revised during negotiations.

**52.225-12 - Notice of Buy American Requirement-Construction Materials Under Trade Agreements, Alternates I (May 2014) and Alternates II (Jun 2009) (Applicable to a TO valued at \$7,358,000 or more, but less than \$10,079,365)**

(a) *Definitions.* “Commercially available off-the-shelf (COTS) item,” “construction material,” “designated country construction material,” “domestic construction material,” and “foreign construction material,” “Bahrainian, Mexican, or Omani 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 shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-11.

*(c) Evaluation of offers.*

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

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

*(d) Alternate offers.*

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

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

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

construction material. An offer based on use of the foreign construction material for which an exception was requested--

- (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
- (ii) May be accepted if revised during negotiations.

**52.225-12 Notice of Buy American Requirement - Construction Materials Under Trade Agreements (May 2014) and Alternate I (May 2014) (Applicable to a TO valued at \$10,079,365 or more)**

(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 shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause [52.225-11](#).

(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 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.

**3052.219-72 Evaluation of Prime Contractor Participation in the DHS Mentor Protégé Program (Jun 2006)**

This solicitation contains a source selection factor or subfactor regarding participation in the DHS Mentor-Protégé Program. In order to receive credit under the source selection factor or subfactor, the offeror shall provide a signed letter of mentor-protégé agreement approval from the DHS Office of Small Business and Disadvantaged Business Utilization (OSDBU) before initial evaluation of proposals. The contracting officer

may, in his or her discretion, give credit for approvals that occur after initial evaluation of proposals, but before final evaluation.

[END OF SECTION K]

**Section L - Instructions, Conditions and Notices to Offerors and Respondents**

**General Instructions to Offerors**

Questions and Amendments: All questions or concerns regarding any aspect of this solicitation shall be submitted electronically to [BorderWallDesignBuild@cbp.dhs.gov](mailto:BorderWallDesignBuild@cbp.dhs.gov) no later than 4 PM EST on March 22, 2017. Questions received after this date and time may not be responded to by the Government. All emails with questions shall be clearly labeled in the subject line of the email with the RFP number: **HSBP1017R0023**.

Offerors shall clearly identify the specific section of the solicitation to which each question relates when submitting questions. Reference should be made to the solicitation Section Heading, page number of the solicitation, and specific location on the page (e.g., third paragraph) in order to facilitate the Government’s response to each question. Questions shall be submitted in a Microsoft Excel file following a format similar to the table below:

<b>Table L.1 – Questions Format</b>			
<b>Question No.</b>	<b>Reference</b>	<b>Question Category</b>	<b>Question</b>
#	<i>Solicitation or Attachments, and Section</i>	<i>Contract or Technical</i>	<i>Question</i>

Responses to submitted questions will be provided to all Offerors via an Amendment to this solicitation through FedBizOpps.

If Amendments to the solicitation are issued, all Offerors must acknowledge the Amendments by signing the accompanying Standard Form 30 and returning the signed Standard Form 30 for all Amendments issued with the Offeror’s proposal submission. Failure to acknowledge all Amendments issued by the Government may result in the proposal submitted in response to the solicitation being found non-responsive by the Government.

**Alternate Proposals**

Alternate Proposals will not be accepted in response to this solicitation.

**Errors, Omissions or Ambiguities**

If an Offeror believes the solicitation, including the instructions to Offerors, contains an error, omission or ambiguity, or is otherwise unsound, the Offeror shall immediately notify the Contract Specialist and Contracting Officer in writing with supporting rationale.

**Anticipated Contract Award**

The Government intends to award multiple Firm-Fixed Price IDIQ Contracts with Initial Task Orders (Prototypes) resulting from this solicitation. The IDIQ period of performance (ordering period) will be for a five-year period. ~~Task Order periods of performance under the IDIQ contracts may end up to five (5) years after the expiration of the IDIQ. Task Orders issued under the IDIQ contracts are established with their own period of performance and as a result, may extend beyond the expiration date of the IDIQ.~~

### **Contract Ceiling Limitation**

As specified herein, each IDIQ contract awarded as a result of this Solicitation shall have a ceiling value of \$300,000,000. Moreover, the contract ceiling to be shared amongst all IDIQ awardees shall not exceed \$300,000,000. That is to say, the Government does not anticipate issuing in excess of \$300,000,000 in task orders collectively under these IDIQ vehicles. As such, the ceiling may not be equally distributed among all IDIQ awardees.

### **False Statements in Offers**

Offerors must provide full, accurate and complete information as required by this solicitation and its attachments. The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

### **Authorized Personnel**

The Offeror shall provide the name, title, address, e-mail and phone number of the company representative(s) who can obligate the Offeror contractually. Also, the Offeror shall identify the individual(s) authorized to negotiate with the Government by providing the name, title, address, e-mail, and phone number of the individual(s).

### **Joint Ventures and Subcontractors – Proposal Requirements**

Joint Ventures: A joint venture is defined as a legal business entity formed between two or more companies (parties) to undertake the performance activities of a contract together. This does not include other arrangements, such as “teaming agreements” or “strategic alliances”, which are not recognized as bona fide joint ventures for the purposes of this solicitation.

Offerors proposing as joint ventures shall provide evidence that the joint venture as a legal entity has been duly formed. Joint ventures shall include a copy of the legal joint venture agreement signed by an authorized officer from each of the firms comprising the joint venture with the chief executive of each entity identified. The Government will not evaluate the capability of any firms that are not included in the joint venture agreement.

If submitting a proposal as a joint venture, the experience and past performance of each joint venture partner can be submitted for the joint venture entity. The experience for each joint venture partner will be considered the experience of the joint venture entity. ~~Page and project form limits apply to the joint venture as a whole, i.e., a submission limitation of three (3) projects under the experience factor is not an allowance of three (3) projects for each of the joint venture partners.~~

Prospective offerors that submit proposals may not change their firm (including Letter of Commitment (LOCs) and proposed sub-contractors) or their joint venture firms, if selected for award. If the joint venture changes after award, the offeror must immediately notify the Contracting Officer’s for an assessment of contractual impact.

Subcontractors: The Government recognizes that completion of a project is often a team effort. Therefore, if an offeror wishes to be credited with the experience and past performance of a subcontractor (i.e., a firm that is not a member of the joint venture), a firm, unequivocal letter of commitment signed by the subcontractor

must be submitted. The letter of commitment must be submitted even if the firm is in some way related to a joint venture partner (for example, the subcontractor is a subsidiary of a joint venture partner, or a subsidiary of a firm to which a joint venture partner is also a subsidiary).

If such a letter of commitment is not submitted, the experience and past performance of subcontractor firms will not be considered.

If the offeror's proposal includes the use of subcontractors, the offeror may not change subcontractors without the Contracting Officer's approval. If the offeror proposes to change subcontractors or letters of commitment after award, the offeror may not change subcontractors or letters of commitment without the Contracting Officer's approval. Approval will not be given unless the Contracting Officer considers the proposed substitute to be equal in all respects to the originally proposed subcontractor and that the substitution is in the best interests of the Government.

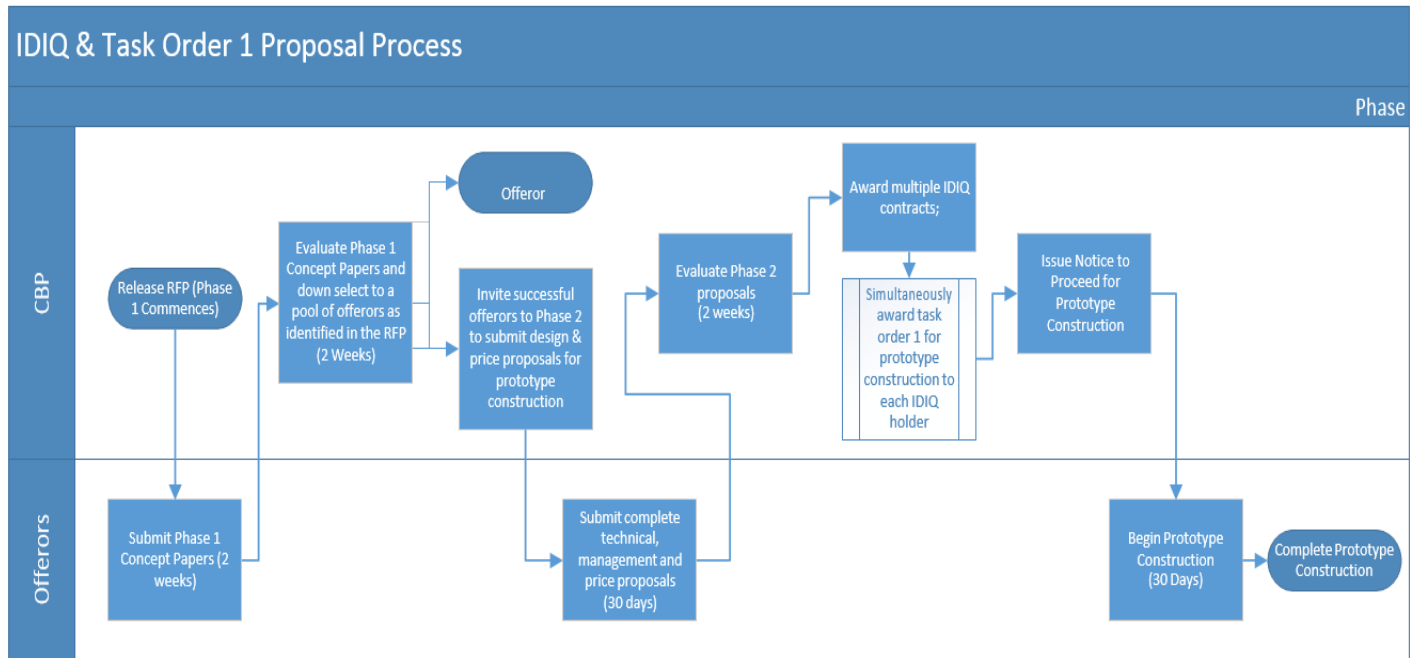
~~Page and project form limits apply to the proposal submission as a whole, i.e., a submission limitation of three (3) projects under the experience factor is not an allowance of three (3) projects for the prime and its subcontractors, but reflect three (3) projects total for the prime as well as its subcontractors.~~

#### **Use of Contractor Support/Advisory Personnel as Contract Advisors**

The offeror's attention is directed to the fact that contractor personnel will assist the Government in an advisory role for solicitation development, proposal analysis, and contract administration. The following companies that are contracted to provide the services listed above include: LMI.

Submission of proposals in response to the solicitation constitutes approval to release the proposal to Government Support Contractors who have signed Non-Disclosure and Rules of Conduct/Conflict of Interest Statements.

**PHASED EVALUATION PROCESS**



This solicitation is a phased evaluation, with a mandatory down-select between Phase I submission and Phase II submission. Offerors shall only submit responses to Phase I submission criteria by the due date noted for Phase I submission of offers. Offerors shall NOT submit responses to Phase II submission criteria unless notified by the Government after Government evaluation of Phase I proposal submissions. Submitting responses to Phase II submission criteria with the initial Phase I submission may lead to disqualification of an Offeror’s entire proposal.

**PHASE I – Concept Papers/Qualifications Statements**

Phase I Submission Instructions

**Phase I Response Date:** Responses to Phase ~~I~~– Concept Papers/Qualifications Statements shall be received no later than 4 PM on March 29, 2017 to the [BorderWallDesignBuild@cbp.dhs.gov](mailto:BorderWallDesignBuild@cbp.dhs.gov). Only soft copies will be received in response to the Phase I. All submissions shall be clearly labeled in the subject line of the email with the RFP number and Phase: **HSBP1017R0023, Phase I**.

**Written Proposal Submission Format**

Phase I responses shall include one (1) executed copy of each Standard Form (SF) 30 Amendment (with Blocks 15A through 15C completed).

All Phase I responses shall be submitted in electronic format to the following email address: [BorderWallDesignBuild@cbp.dhs.gov](mailto:BorderWallDesignBuild@cbp.dhs.gov). The papers/qualifications shall be submitted in electronic format using Microsoft Word 2003 (or higher versions when available) for text submissions and Excel 2003 (or higher versions when available) for spreadsheet submissions. Phase I responses can also be submitted in electronic format using ADOBE PDF.

Submit only the electronic files specifically authorized and/or required for this phase. Do not submit excess information, to include audio-visual materials, electronic media, etc. All pages must be numbered.

PDF pages should be formatted to print on 8 ½ by 11 inch paper, unless another paper size is specifically authorized elsewhere in this section for a particular submission. Spreadsheets and conceptual drawings must fit to ~~11" x 14"~~ 11" x 17" paper size unless specifically authorized in this section for a particular submission. If an offeror chooses to include spreadsheets or conceptual drawings in its submission, each 11" x 17" page will count as two pages and will be included in the 10 page limit for Phase I. Do not use a font size smaller than 12, an unusual font style such as script, or condensed print for any submission. This formatting applies to graphs, tables, charts, etc. too. All page margins must be at least 1 inch wide, but may include headers and footers of the solicitation, project title and company. The formatting specified herein applies to the Phase I submission in its entirety.

Page limitations: One side of the paper is one page; and a page with information on both the front and back of a single sheet of paper will be counted as two pages. Pages furnished for organizational purposes only, such as a "Table of Contents" or divider tabs, are not included in the page limitation.

The Phase I concept paper/qualifications statement shall not exceed ten (10) pages in total. The completed SF30s, "Table of Contents", divider tabs, completed Project Performance Survey and Summary Matrix are excluded from the 10 pages.

## **Phase I Concept Papers/Request for Qualifications**

The concept paper/qualifications should discuss the following (1-3) below:

### **1) Demonstrated Experience**

The Offeror shall describe the Prime Offeror's and/or Major Subcontractors' experience leading and successfully completing several large projects (completed to at least 50% or more within the past 5 years) that included design against specific customer requirements, a broad range of structures including but not limited to walls of other than solid concrete, roads, deployment and construction in challenging areas similar to the border environment, while meeting or exceeding cost, schedule, and performance goals. The Government defines similar projects as projects which address border/perimeter security or constructed fortification for challenging environmental and operational constraints that are at minimum \$25 million dollars in size. However, the Government will consider project experience that may fall outside this definition, provided that the Offeror includes a rationale for the comparability. The Offeror shall also discuss its ability to be able to bond at a minimum value of \$200,000. The Offeror shall provide a point of contact (name, telephone number, and email address) in its paper for the one project discussed in this section that it believes best represents its performance as it relates to the scope of this project. The Offeror shall also ask the identified POC to complete a Project Performance Survey (see Attachment #8), which the Offeror shall submit with its concept paper. It is the Offeror's responsibility to submit a completed survey (by the POC) with its concept paper. If an Offeror submits a concept paper without a completed survey, the Government will consider the concept paper incomplete and will not consider it in the Phase I evaluation.

### **2) Management and Technical Competence**

The Offeror shall identify key personnel with outstanding training, experience, and other qualifications; strong and credible assurance that those personnel will continue to be available throughout the period of performance, an outstanding and highly proactive program management approach with strong cost, schedule, and management controls; demonstrated experience in early identification and resolution of program



variances; and outstanding technical approach with highly skilled technical personnel to support it. The extent to which the offeror has the skilled personnel and processes to perform a large and complex design and construction project shall be discussed. The offeror shall include descriptions of key personnel and their availability to support the project. The offeror shall also explain how it sets the project baseline, assesses status against the baseline, and addresses issues and variances. The offeror shall describe its ability to meet the Government's schedule requirements for the prototype construction. The offer shall outline the skills and competencies of staff who are available to support the technical and management activities of the project.

### **3) Prototype Concept Approach**

The Offeror shall discuss and present the Offeror's proposed design and construction concept for the "Other Border Wall Prototype", consisting of technical approach narratives and information regarding the material and system quality. This may include conceptual level presentation drawings. Prototypes constructed in response to this solicitation must offer designs that are alternatives to reinforced solid concrete walls (i.e. no solid concrete external faces). The response must clearly define the proposed scope and quality levels that the design-build team is offering to the Government in enough detail for the Government and the Offeror to mutually understand whether or not the proposal meets or exceeds the minimum solicitation requirements for the "Other Border Wall Prototype". Fully developed drawings, details or specifications are not desired or required. The Offeror shall describe how its proposed design and construction concept for the "Other Border Wall Prototype" accommodates the specific requirements and needs of the border environment.

The Government has prepared a set of exemplar questions to be considered during proposal review. These exemplars are not designed to be all-inclusive, but are intended to assist offerors in better understanding certain areas of focus. In drafting Sections L and M of this RFP, the Government has intended to synthesize the spirit and intent of questions like these:

- Describe how your proposed border wall design meets or exceeds CBP's performance requirements for the border wall prototype design (e.g. 6 feet anti-dig/anti-tunnel)
- Describe your experience executing high profile, high visibility and politically contentious design-build projects
- Describe your experience constructing tactical infrastructure (e.g. fencing, roads, drainage, lights, etc.) on the southwest border
- Describe your design-build experience constructing projects in challenging (e.g. steep slopes up to 45 degrees) and or inaccessible terrain on the southwest border.
- Describe your dollar threshold experience with large design-build contracts efforts – what was the minimum/maximum?
- Describe your experience working on projects that involved a large number of federal, state and local stakeholders
- Describe your past performance (i.e. how your customer would rate you) on completing similarly sized programs and projects from a cost (original award; final cost) and schedule perspective (have you had to pay liquidated damages?)
- Describe potential project risks and your mitigation strategies- project risks mitigation strategy building wall along the southwest border
- Describe how you propose to keep costs low while still meeting CBP's performance requirements.
- Describe the qualifications, experience and time availability of your key personnel- describe your successful ability to recruit and maintain staffing strategy in remote areas throughout the southwest border
- Describe design-build team's experience working together.

Where the offeror makes assertions about capabilities, experience, and skill, the concept paper shall include substantiating evidence so that the Government can assess the credibility and likelihood of those assertions. Examples of past design and construction work, or of existing or contemplated designs, that might bear on this effort could be one type of useful substantiating evidence for some elements.

Offerors are strongly encouraged to create a matrix to show how elements of the proposal address the Government’s Statement of Work, Proposal Instructions, and Evaluation Approach. Offerors may attach a summary matrix not to exceed two pages to their Phase I proposal; these two pages will NOT count against the concept proposal page limit.

**PHASE I DOWN-SELECT**

After the Government completes its Phase I evaluation, the Government will perform a down-select of Phase I concept papers/qualifications and request Phase II submissions from only those Offerors who are deemed to be most highly qualified. The Government intends to invite up to twenty (20) Offerors from among those who submitted Phase I papers/qualifications into the Phase II proposal and evaluation process. This means that every Offeror who submits a Phase I concept paper/qualifications would not be able to participate in Phase II. Only the Offerors with the most highly rated Phase I concept papers/qualifications will be included in the down-select and will be notified accordingly. Offerors not included in the down-select will be notified by the Government separately and will have an opportunity to be debriefed in accordance with FAR Section 15.505.

**PHASE II – Request for Proposals**

Phase II Submission Instructions

**Phase II Response Date:** Responses to Phase II – Request for Proposals shall be received no later than (date and time to be determined) to the [BorderWallDesignBuild@cbp.dhs.gov](mailto:BorderWallDesignBuild@cbp.dhs.gov). Only soft copies will be received in response to Phase II. All submissions shall be clearly labeled in the subject line of the email with the RFP number and Phase: **HSBP1017R0023, Phase II.**

Each Offeror's proposal submitted in response to this solicitation shall be prepared in five volumes as defined below. Each of the parts shall be separate and complete in itself so that evaluation of one may be accomplished independently from evaluation of the other.

Offerors must submit initial proposals that are fully responsive to the Government’s requirements and that clearly demonstrate the Offeror’s capabilities and approach to meeting the requirements.

Offerors shall prepare proposals and provide all required information in accordance with the following chart and subsequent instructions included herein. Elaborate brochures or documentation, binding, detailed artwork, or other embellishments are unnecessary and will be discarded if submitted as part of the Offeror’s proposal. Failure of a proposal to comply with these instructions may be grounds for exclusion of the proposal from further consideration.

<b>Volume</b>	<b>Volume Title</b>	<b>Soft/Hard Copies</b>	<b>Page Limit</b>
I	Price/Business	1/None	No Limit

II	Technical/Management	1/None	20
III	Other Border Wall Prototype Design	1/None	10
IV	Past Performance	1/None	1 (plus PPQs)
V	Subcontracting Plan	1/None	No Limit

**Page Limitations:** Page limitations shall be treated as maximums. If exceeded, the excess pages will not be evaluated. Instead, they will be removed and retained in the solicitation file. Each page shall be counted except for the following:

Cover Pages  
Tables of Contents  
Glossaries  
Acronym List  
Requirements Traceability Matrix  
Titled Tab Pages  
Resumes of Key Personnel  
Sample Reports  
Staffing Tables and Matrices  
~~Preliminary Sector Transportation Plans~~  
Letters of Commitment  
Teaming Agreements

**Cross Referencing:** Each volume shall be written on a stand-alone basis so that its contents may be evaluated with a minimum of cross referencing to other volumes of the proposal.

**Indexing:** Each volume shall contain a detailed Table of Contents to delineate the contents within the volume.

**Glossary of Abbreviations and Acronyms:** If abbreviations and acronyms are used in Volume II - Technical & Management, include a glossary that contains a listing of all abbreviations and acronyms used with an explanation for each.

**Page Size and Format:** Text shall be single-spaced, on 8 1/2 x 11 inch paper (except as specifically noted), with a minimum one-inch margin all around. Pages shall be numbered consecutively. 11" x 17" sized fold-out pages may be used for tables, charts, graphs, or pictures that cannot be legibly presented on 8 1/2" x 11" paper. An 11" x 17" printed on one side is a two sheet equivalent (with regards to the page count limitations). Print shall be of a minimum 12-point font size or a maximum 10 characters per inch (10-pitch, pica) spacing. Bolding, underlining, and italics may be used to identify topic demarcations or points of emphasis. Graphic presentations, including tables, while not subject to the same font size and spacing requirements, shall have spacing and text that is easily readable.

**Tabbing:** Offerors shall separate all Tabs and sections within the Price and Technical & Management Volumes with a titled cut sheet.

Failure of a proposal to comply with these instructions may be grounds for exclusion of the proposal from further consideration.

**Signed Proposal:** The Standard Form 1442, Solicitation, Offer and Award (Construction, Alteration, or Repair), is being used for this solicitation. This form is used by the Government as a Request for Proposal and upon submission by the offeror it becomes the offeror's proposal. As such, it is an "offer" which can be unilaterally accepted by the Contracting Officer and awarded on said SF 1442. The Contractor's offer and the Government's acceptance form the contract. Therefore, the following points must be strictly adhered to by the offeror in submitting the proposal:

- (a) One (1) originally executed copy of Standard Form 1442 (with Blocks 14 through 30 completed), and Section K fully executed, shall be submitted.
- (b) The SF 1442 must be executed by a representative of the offeror authorized to commit the offeror to contractual obligations. The authority to sign a proposal, but not an offer, subject to unilateral acceptance and award, is not sufficient authorization to sign the SF 1442.
- (c) UNDER NO CIRCUMSTANCES SHOULD OFFERORS MAKE ALTERATIONS OR CHANGES TO THE SF 1442 OR THE RELATED PAGES WHICH ARE A PART OF THE ENCLOSED REQUEST FOR PROPOSAL AND PROPOSAL PACKET.

Offerors are to complete those parts that require items such as prices, place of performance, etc., when such items are called for in the enclosed request for proposal. A place is provided to insert such information.

## **VOLUME I: PRICE/BUSINESS PROPOSAL [Phase II]**

**1) Proposal Form 1442:** Offerors are required to complete and submit Standard Form 1442 as part of its proposal along with any amendment receipt acknowledgement(s).

**2) TAB A - Schedule B:** Offerors shall complete Section B of the RFP AND submit a complete price breakdown for the prototype project per Attachment #2 (Supporting Price Details Spreadsheet), which will be the basis for price evaluation for the IDIQ and initial Task Order.

Additionally, the Offeror shall submit a one (1) page rationale that describes the Offeror's perceived trade-offs between its proposed approach for the prototype and its proposed price for the prototype. Trade-offs may describe how the proposed "Other Border Wall Prototype" solution justifies the price premium or better satisfies the mission and operational needs.

**3) TAB B - Bid Guarantee:** Offerors shall include their bid guarantee in this tab of the Price/Business Proposal.

**4) TAB C – Joint Venture Agreement (as applicable):** Offerors proposing as joint ventures shall include a copy of their legal joint venture agreement signed by an authorized officer from each of the firms comprising the joint venture with the chief executive of each entity identified.

**Cost or Pricing Data:** Offerors are not required to submit certified cost or pricing data. Full and open competition is expected which will be used to determine fairness and reasonableness of proposed pricing. Prices will be compared on a Contract Line Item Number (CLIN) and/or total basis. However, Offerors may be requested to provide additional information in the event costs appear over-stated or under-stated.

## VOLUME II: TECHNICAL & MANAGEMENT

This volume must not contain any reference to price; however, resource information (such as data concerning labor hours and categories, materials, subcontracts, etc.) must be contained in the technical proposal so that the offeror's understanding of the requirements may be evaluated.

The Technical & Management Volume shall be prepared in such a manner as to enable the Government reviewers to make a thorough evaluation and arrive at a sound determination of whether the proposal meets all technical requirements of the solicitation. To this end, the Technical & Management Proposal should be sufficiently specific, detailed, and complete as to clearly and fully demonstrate that the offeror has a thorough understanding of the requirements set forth in the solicitation. Statements by an offeror that merely offer to perform in accordance with the Government's requirements or which merely paraphrase the requirements document(s), or use phrases such as, "standard engineering practices will be employed," or "well established techniques will be employed," etc. may be considered non-compliant and ineligible for award.

The Technical & Management Volume shall not exceed 20 pages (excluding the transmittal letter).

This volume shall also include the following:

**1) Transmittal Letter:** A letter that formally transmits the technical proposal and states in general terms how the offeror meets the solicitation requirements. This letter shall not exceed two (2) pages, which shall not count against the total number of pages authorized for the Technical and Management Volume.

**2) Tab A: Technical and Management Plan** (15 pages total)

**A-1:** The Offeror shall describe how the Offeror's management approach will meet the Government's requirements outlined in the IDIQ Statement of Work for managing technical and management approach in the areas of execution, quality control, program controls, ~~and~~ management and risk and risk mitigation capability to simultaneously perform multiple wall construction contracts in both remote and urban environments, under varied environmental conditions, along the southwest border. This should clearly identify major subcontractors and the roles and responsibilities of major subcontractors related to the overall proposed technical and management plan.

**A-2:** The Offeror shall describe how the Offeror will manage the construction of the "Other Border Wall Prototype" under the initial Task Order to include the following: number and composition of work crews by phase, coordination and control of work crews, material transportation, delivery and staging, pre-fabrication strategy, production management, coordination of construction with on-going design efforts, quality control processes, and types of equipment to be used to perform work.

**A-3:** The Offeror shall provide a detailed schedule showing key activities and milestones, including critical path. The Offeror shall provide a plan for streamlining design and construction and managing labor and other resources to reduce costs and achieve an aggressive schedule. The Offeror shall discuss the Offeror's internal process for handling delays to minimize "schedule creep."

**A-4:** The Offeror shall describe how the Offeror will address security under performance of any resultant IDIQ and task orders.

**A-5:** The Offeror shall describe any technical and management innovations it is proposing to implement which are focused on quality improvement, cost reduction, schedule efficiencies, and increasing the security of the wall under performance of a resultant IDIQ award.

A-6: Letters of Commitment/Teaming Agreements. Offerors participating in teaming/partnering arrangements for this procurement shall submit their teaming/partnering agreements with their Phase II proposal. The agreements shall be signed by the parties and shall demonstrate the relationship between firms and identify contractual relationships and authorities to bind the firm and the team/partnership. Offerors proposing major subcontracts (subcontracts exceeding 10% of the prime contract value) shall submit signed letters of commitment from the subcontractors which define the contractual relationship and identify contribution to the planned arrangement in terms of the type and proportion of work to be performed. Copies of agreements and letters of commitment shall be submitted with the proposal under this section (A-6) and will not count towards the page limitation.

Offerors shall include a cover page with their agreements to include a list of the teaming/partnering parties and the following information for each party: company name, DUNS number, address, point of contact, email address, phone and fax numbers.

### 3) TAB B - Bonding Capacity (2 pages)

Provide substantiating evidence from a federally approved surety indicating that the Offeror (prime contractor only) has the ability to bond for the full value of the offeror's prototype. The offeror must submit a letter of commitment from a surety, signed by an officer or agent authorized to bond, that identifies the offeror's available bonding capacity and limits that the surety will bond the Offeror, as the successful awardee for this project, taking into consideration the Cost Ceiling Limitation described in this Solicitation. If the Offeror submits evidence from an individual Surety, the individual surety must include documentation meeting the requirements of FAR 28.203 and contract clause 52.228-11.

Offerors should note that additional bonding requirements may be required on subsequent task orders under the resultant IDIQ contract. See Section H clause "Ordering Procedures" for additional information.

If an informal teaming agreement is in place, the small business offeror with the DUNS number provided on the proposal must possess the bonding capacity. If an SBA approved Joint Venture, then the bonding capacity of the mentor can be used per current SBA rules. The teaming agreement must be provided if an informal teaming arrangement, or the SBA approval and CCR register if an SBA approved joint venture.

A list of federally approved sureties can be found at the following website:

[https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570\\_a-z.htm](https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm)

### 4) Tab C - Resumes of Proposed Key Personnel (1 page per resume)

The Offeror shall submit the resume for all three (3) proposed Key Personnel in accordance with the RFP requirements (Section H and the Statement of Work (SOW)). The resumes shall demonstrate the technical competency of each proposed Key Personnel to support the requirements of the scope and contractual obligations contained within this solicitation for that Key Personnel position.

**Technical and Management Oral Presentation:** See oral presentation instructions in "Phase 2 – Oral Presentation" below (30 minutes)

**VOLUME III: “OTHER BORDER WALL PROTOTYPE” DESIGN** (10 pages total)

The Offeror shall provide a 60% Preliminary Design Submittal for proposed “Other Border Wall Prototype” based upon the information made available in this RFP and any amendments thereto. Prototypes constructed in response to this solicitation must offer designs that are alternatives to reinforced solid concrete walls (i.e. no solid concrete external faces). The Preliminary Design Submittal shall be comprised of design narratives, engineering drawings, and technical specifications. The Offeror shall also provide a 30-day build schedule for the proposed “Other Border Wall Prototype”.

**“Other Border Wall and Prototype Designs Oral Presentation:** See oral presentation instructions in “Phase II – Oral Presentation” below (60 minutes total for “Other Border Wall Prototype”).

**VOLUME IV: PAST PERFORMANCE** (not to exceed 1 PPQ per project submitted under Phase I – Demonstrated Experience; plus 1 page of POC information only (includes POCs for all PPQ projects))

The Offeror shall send Attachment #3 Past Performance Questionnaire to references associated with the projects submitted under Phase I - Demonstrated Experience, requesting that the Past Performance Questionnaire be completed (by the reference) and returned electronically via e-mail to [BorderWallDesignBuild@cbp.dhs.gov](mailto:BorderWallDesignBuild@cbp.dhs.gov). All submissions shall be clearly labeled in the subject line of the email with the RFP number, Phase, and Offeror’s name: **HSBP1017R0023, Phase II, [Offeror’s Name]**.

Additionally as part of its Phase II proposal, the Offeror shall provide the Government one (1) page that contains the Point of Contact (POC) information for each project cited in its submission in response to Phase I - Demonstrated Experience. The provided POC information shall include the project title, the full name of the POC, the POC’s company, the POC’s title, and the POC’s e-mail and phone number). The Government reserves the right to contact identified POCs to discuss the Past Performance Questionnaire submitted by that POC as well as to request additional information or clarifications. The Government may also consider past performance reports available on other past performance databases, such as the Past Performance Information Retrieval System (PPIRS), the Construction Contractor Appraisal Support System (CCASS), and Contractor Performance Assessment Reporting System (CPARS), as part of its evaluation.

The past performance evaluation conducted in response to this submission for the Past Performance Factor is in addition to the Contracting Officer’s Determination of Prospective Contractor Responsibility that will be conducted in accordance with FAR 9.1.

**VOLUME V: SUBCONTRACTING PLAN** (no page limitation)

This requirement applies to large businesses only. Small businesses are EXEMPT from the requirement to submit Volume V: Subcontracting Plan.

Subcontracting Plan Requirements:

- (a) Describe the Prime’s corporate commitment in providing subcontracting opportunities for small business (SB), small-disadvantaged business (SDB), women-owned small business (WOSB), HUBZone small business, and service disabled veteran-owned small businesses (SDVOSB). Describe the strength and specificity of each corporate commitment (i.e., what type of commitment, how binding is the commitment, how specific is the commitment to this proposed effort, and what types of tasks are included in these subcontracting opportunities).

(b) Provide one year history demonstrating your corporate commitment to meet your subcontracting goals/targets by providing SF 294s, Subcontracting Report for Individual Contracts, for those contracts/projects which you are submitting under Past Performance. If goals were not met on the SF 294 then provide an explanation as to why the goals/targets were not met. This information will be used to determine proposal risk associated with the offeror’s corporate commitment for small business goals.

(c) Goals/Targets.

(1) Describe how your subcontracting targets compare to the CBP goals (e.g. meets, exceeds, or does not meet).

SMALL BUSINESS	38%
SMALL DISADVANTAGED	5%
WOMAN OWNED	5%
HUBZONE	3%
SERVICE DISABLED VETERAN OWNED	3%

(2) Describe how you will meet specific subcontracting percentages and goals for the CBP contracts expressed in dollars and in percentages of your total proposed subcontracting dollars for subcontracting to each category above. These goals may be met by any combination of subcontracts, other business teaming arrangements or vendor purchases and should make use of small businesses to the maximum extent practicable.

(3) For the SDB Participation Program, provide your targets expressed as dollars and percentages of anticipated total contract value, in each of the applicable, authorized NAICS Industry Subsectors. For proposal purposes, provide your assumption of anticipated total contract value should you be awarded a contract. This SDB Participation Program target is a separate target that you propose for this program, pursuant to FAR 19.12.

(d) Provide a Small Business Subcontracting Plan in accordance with FAR 19.7 using Attachment #4 (CBP Subcontracting Plan Template).

(e) Provide the signed letter of mentor-protégé agreement approval from the DHS Office of Small Business and Disadvantaged Business Utilization (OSDBU).

**Phase 2 - Oral Presentation**

1) Notification for Oral Presentation: The invitation to submit response to Phase 2 Request for Proposals will include the date and time of the Offeror’s scheduled oral presentation, which will afford the Offeror at least ten (10) calendar days advance notice of the date, time and location of the Offeror’s scheduled oral presentation. The oral presentation will be held in-person in the Washington, DC metropolitan area. Further details will be provided to the Offeror in the invitation. The order in which Offerors invited to submit a response to Phase 2 Request for Proposals are scheduled for oral presentations will be randomly selected by the Government.

2) Recording: The Government reserves the right to record the oral presentation.

3) Offeror Participants: The Offeror’s participants in the oral presentations shall be limited to the Key Personnel proposed by the Offeror in the proposal submission, the responsible corporate official named in accordance with Section L “Authorized Personnel”, and two additional participants of the Offeror’s own choosing. No more than six (6) Offeror participants for the oral presentations are permitted.



No later than five (5) calendar days prior to the Offeror’s scheduled oral presentation, the Offeror shall provide send the name, current employer/company, and e-mails of the Offeror Participants for the oral presentation to [BorderWallDesignBuild@cbp.dhs.gov](mailto:BorderWallDesignBuild@cbp.dhs.gov)

4) Format for Oral Presentations: The Government intends for the oral presentation to proceed as follows:

Oral Presentation Portion	Oral Presentation Component	Total Time Allotment
1	Introduction and Oral Presentation Process and Expectations. The Government will provide the Offeror a standard set of questions related to technical and management capabilities.	Not specified
2	The Offeror shall caucus among themselves to prepare answers/responses and adjust its prepared oral presentation accordingly.	30 minutes
3	The Offeror shall present its proposed technical and management approach, including to the standard set of questions provided by the Government.	45 minutes
4	The Offeror shall present its proposed prototype designs for the “Other Border Wall Prototype”	60 minutes
5	The Government will caucus to prepare clarifying questions	15 minutes
6	The Offeror will hear and respond to the Government’s clarifying questions, if applicable.	15 minutes

The Government will provide HDMI connection to a projector, white board, paper, and writing materials for the Offeror to use during oral presentations. Offerors can expect the presentation will be conducted in a conference room with a table of sufficient size to accommodate the participants, including the Government attendees.

With the exception of two computers (one as back-up) that do not have wifi/internet connectivity, the Offeror shall not bring any electronic devices, including additional computers, tablets or smart phones, into the oral presentation conference room.

The Offeror Participants shall not reach back, by telephone, e-mail or any other means, to any other personnel or persons for assistance during the oral presentation

5) Intent of Oral Presentation: The oral presentation is intended to explain the Offeror’s written submission for the Technical and Management Volume and the “Other Border Wall Prototype” Design. The oral presentation shall not provide the Offeror any opportunity to revise or change the proposed technical or management volume or proposed prototype wall designs, and is therefore not construed to be discussions with the Offeror.

[End of Provision]

**52.252-2 - Clauses Incorporated by Reference (Feb 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these addresses: <http://farsite.hill.af.mil/vffara.htm> and <http://farsite.hill.af.mil/vfhsara.htm>

**52.204-7 - System for Award Management (Oct 2016)****52.204-18 - Commercial and Government Entity Code Maintenance (Jul 2016)****52.214-34 - Submission of Offers in the English Language (Apr 1991)****52.214-35 – Submission of Offers in U.S. Currency (Apr 1991)****52.215-1 - Instructions to Offerors -- Competitive Acquisition (Jan 2017)****52.222-23 - Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction (Feb 1999)****52.216-1 - Type of Contract (Apr 1984)**

The Government contemplates multiple Firm-Fixed Price IDIQ Contracts with Initial Task Orders (Prototypes) resulting from this solicitation.

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

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

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

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

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

**52.228-1 - Bid Guarantee (Sep 1996)**

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

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

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

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

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

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

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

**52.233-2 Service of Protest (Sep 2006)**

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with

an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

Customs and Border Protection  
 Attn: Border Wall Contracting Officer, Solicitation HSBP1017R0023  
 1331 Pennsylvania Avenue, NW  
 National Place, Suite 1355  
 Washington DC, 20229  
 Emailed to: [BorderWallDesignBuild@cbp.dhs.gov](mailto:BorderWallDesignBuild@cbp.dhs.gov)

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

**3052.209-70 Prohibition on contracts with corporate expatriates (Jun 2006)**

(a) Prohibitions. Section 835 of the Homeland Security Act, 6 U.S.C. 395, prohibits the Department of Homeland Security from entering into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation as defined in this clause, or with any subsidiary of such an entity. The Secretary shall waive the prohibition with respect to any specific contract if the Secretary determines that the waiver is required in the interest of national security. (b) Definitions. As used in this clause: *Expanded Affiliated Group* means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

*Foreign Incorporated Entity* means any entity which is, or but for subsection (b) of section 835 of the Homeland Security Act, 6 U.S.C. 395, would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986. *Inverted Domestic Corporation*. A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) The entity completes the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) After the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(i) In the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(ii) In the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) The expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

*Person, domestic, and foreign* have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(c) Special rules. The following definitions and special rules shall apply when determining whether a foreign incorporated entity should be treated as an inverted domestic corporation.

(1) *Certain stock disregarded*. For the purpose of treating a foreign incorporated entity as an inverted domestic corporation these shall not be taken into account in determining ownership:

(i) Stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) Stock of such entity which is sold in a public offering related to an acquisition described in section 835(b)(1) of the Homeland Security Act, 6 U.S.C. 395(b)(1).

(2) *Plan deemed in certain cases*. If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(3) *Certain transfers disregarded.* The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(d) *Special rule for related partnerships.* For purposes of applying section 835(b) of the Homeland Security Act, 6 U.S.C. 395(b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as a partnership.

(e) Treatment of Certain Rights.

(1) Certain rights shall be treated as stocks to the extent necessary to reflect the present value of all equitable interests incident to the transaction, as follows: (i) warrants; (ii) options; (iii) contracts to acquire stock; (iv) convertible debt instruments; and (v) others similar interests.

(2) Rights labeled as stocks shall not be treated as stocks whenever it is deemed appropriate to do so to reflect the present value of the transaction or to disregard transactions whose recognition would defeat the purpose of Section 835.

(f) *Disclosure.* The offeror under this solicitation represents that [Check one]:

it is not a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.108-7003;

it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.108-7003, but it has submitted a request for waiver pursuant to 3009.108-7004, which has not been denied; or it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.108-7003, but it plans to submit a request for waiver pursuant to 3009.108-7004.

(g) A copy of the approved waiver, if a waiver has already been granted, or the waiver request, if a waiver has been applied for, shall be attached to the bid or proposal.

[END OF SECTION L]

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

### **M.1 Multiple Awards:**

The Government contemplates awarding multiple Indefinite Delivery Indefinite Quantity IDIQ contracts and prototype project(s) as the initial Task Order.

### **M.2 Source Selection Process:**

The Government will evaluate each Offeror's concept paper/qualifications statement in its totality. This means that the Government will include in its down-select those concept papers whose approach best meets the Government's requirements, as evaluated, using the Phase I criteria set forth below. The outcome of this Phase I decision will determine those Offerors that will be invited to participate in Phase II. The Government will invite up to 20 Offerors to participate in Phase II.

For those offerors invited to participate in Phase II, the Government will evaluate each proposal in its totality. Similar to Phase I, this means that the Government will evaluate all Phase II proposals in accordance with the Phase II evaluation criteria set forth below. Multiple awards will be made to offerors whose Phase II proposal provide the best value to the Government.

The Government intends to evaluate proposals and award without further communication with Offerors. Therefore, the Offeror's submission for Phase I and Phase II, if invited, shall contain the Offeror's best terms. The Offeror shall assume that the Government has no prior knowledge of the Offeror's experience and that the Government will base its evaluation on the information presented in the Offeror's submission for Phase I and, if invited, for Phase II.

### **M.3 Basis of Award:**

These awards will be made in accordance with Federal Acquisition Regulation (FAR) 15.101-1 Best Value Trade-Off Process. Award(s) will be made to the offerors whose proposal the Source Selection Authority (SSA) determines conform to the solicitation, is fair and reasonable with regard to pricing for the prototype projects, and whose proposal offers the best overall value to the Government when considering price and the non-price factors described herein. The trade-off process could result in award to other than the lowest-priced Offeror or other than the Offeror rated highest on non-price factors.

### **M.4 Responsibility Determination:**

The Government will conduct a responsibility determination of Offerors prior to any prospective contract award according to FAR 9.104 – "Standards" using data listed on SAM.GOV, as well as other applicable sources. Offerors are encouraged to verify that the information listed on SAM.GOV is up to date and accurate.

### **M. 5 Evaluation Factors and Relative Order of Importance:**

The Government will evaluate qualifications (Phase I) and proposals (Phase II) based on the following evaluation factors and relative order of importance:

#### **PHASE I**

- Factor 1-1 – Demonstrated Experience
- Factor 1-2 – Management and Technical Competence

- Factor 1-3 – Prototype Concept Approach

Factor 1-3 is significantly more important than Factor 1-2. Factor 1-2 is more important than Factor 1-1.

## **PHASE II**

- Factor 2-1 – Technical and Management Capability
- Factor 2-2 – Feasibility and Fit of the Prototype Wall Design
- Factor 2-3 – Past Performance
- Factor 2-4 – Small Business Subcontracting Plan
- Factor 2-5 – Price

Factor 2-2 is significantly more important than either Factors 2-1, 2-3, or 2-4 individually. Factor 2-1 is more important than Factor 2-3. Factor 2-3 is more important than Factor 2-4. All non-price evaluation factors, when combined, are significantly more important than the price.

As the non-price merits of competing Offerors' proposals approach equal, Factor 2-5 will become more important in the best value trade-off decision.

Small Businesses will be evaluated based on Factor 2-1, 2-2, 2-3, and 2-5. For Factor 2-4, Small Businesses will not be assigned a rating by the Government.

## **M.6 Evaluation Approach**

### **PHASE I**

#### **Factor 1-1 – Demonstrated Experience**

Evaluated based on evidence that the offeror has the demonstrated capability successfully to complete major design and construction projects of the large scope ultimately anticipated for the border wall. As part of this Factor, the Government will assess the offeror's Specialized Experience and will consider the offeror's past performance.

Evaluated the extent to which the offeror has experience with large construction projects, and how well the contractor performed on those efforts and to the extent that the contractor's financial viability, including the contractor's ability to obtain adequate bonding for large construction projects. Offeror's who provide strong substantiating evidence of experience, past performance, and financial viability will rank higher than offeror's who have weak or unsubstantiated claims. Based on the contractor's past experience, past performance, and financial viability, the Government will assess the likelihood that the offeror would successfully complete the project.

A highly confident offeror will have characteristics including, but not necessarily limited to, experience leading and successfully completing several very large projects that included design against specific customer requirements, a broad range of structures including but not limited to walls of other than solid concrete, and roads, deployment and construction in challenging areas similar to the border environment, while meeting or exceeding cost, schedule, and performance goals. Further, a highly confident offeror will have provided

highly convincing justification to validate the claims and assertions in the proposal and will show financial viability and bonding appropriate to very large construction projects.

Offerors must demonstrate that they have the ability to bond for a minimum value of \$200,000. Offerors unable to meet this requirement will receive a low confidence rating and will be eliminated from further consideration.

Note that for Factor 1-1 – Offerors will not be assigned a separate confidence rating for past performance in Phase I. To the extent that an offeror is determined to have no relevant past performance, its overall confidence rating for the Demonstrated Experience factor will not be impacted either favorably or unfavorably consistent with FAR 15.305(a)(2)(iv).

### **Factor 1-2 – Management and Technical Competence**

Evaluated for evidence that the offeror has the technical and management skills necessary to lead and complete a complex design and construction effort of this nature.

Within this Factor, the Government will assess the extent to which the offeror identifies and commits key personnel with appropriate experience and qualifications. The Government will evaluate the offeror's program management approach and assess the extent to which it will help increase the likelihood of completing the task on or ahead of cost, schedule, and performance goals. The Government will review the offeror's proposed technical approach, as well as the capability of the contractor's management and technical staff. The Government will determine its confidence that the contractor's personnel and management control system will contribute to risk of program failure or likelihood of success.

A highly confident offer will have characteristics including, but not necessarily limited to, identification of key personnel with outstanding training, experience, and other qualifications; strong and credible assurance that those personnel will continue to be available throughout the period of performance, an outstanding and highly proactive program management approach with strong cost, schedule, and management controls; demonstrated experience in early identification and resolution of program variances; and outstanding technical approach with highly skilled technical personnel to support it.

### **Factor 1-3 – Prototype Concepts Approach**

Evaluate the likelihood that the offeror's design and construction approach will result in a detailed proposal (including a 60% design) and subsequently a wall that meets or exceeds the Government's requirements.

Evaluate the contractor's design approach and its likelihood of producing a design that meets or exceeds the Government's requirements. The Government will also assess the offeror's appreciation of and ability to accommodate considerations of cost and cost-effectiveness.

Evaluate the offeror's demonstrated understanding of the border law enforcement environment, how the law enforcement environment and operations are impacted by a wall or other barrier, and how well the prototype concept accommodates operational considerations of the border environment.

A highly confident offer will have characteristics that include, but are not necessarily limited to, substantially exceeding nearly all of the Government's requirements, a complete and credible understanding of the importance of cost and cost-effectiveness throughout the design and construction process, a prototype concept that clearly accommodates and will be effective in the specific operational environment on the border, and a demonstrated ability to provide enhancements and increased performance without excessive impact to overall cost.

Offerors who fail to meet one or more of the Government's requirements, or who provide inadequate substantiation of performance to enable the Government to reach a reliable conclusion, will receive a low confidence rating and may be eliminated from further consideration.

## **PHASE II**

### **Factor 2-1 – Technical and Management Capability**

The Government will consider how well the offeror's technical and management approaches are likely to result in a successful prototype. In particular, the Government will consider:

- The reasonableness and realism of the offeror's proposed schedule
- The extent to which the offeror's proposal meets or exceeds requirements
- The approach to maintenance and ease of repair
- The identification of risks and plans to mitigate them
- The reasonableness of any assumptions made by the offeror's
- The offeror's approach to assessing and reporting program progress
- The offeror's approach to maintain effective communication with the Government
- The qualifications of the offeror's proposed key personnel
- The offeror's evidence from a federally approved surety indicating that the Offeror (prime contractor only) can bond for the full value of its prototype.

### **Factor 2-2 – Feasibility and Fit of the Prototype Wall Designs**

Evaluated for evidence that the offeror understands the operational environment of the United States Border Patrol as it enforces our immigration laws along the United States Southwest Border. This will include evidence that the offeror understands the impacts of the environment on any design and construction activity.

The Government will evaluate the extent to which the offeror has demonstrated a clear understanding of the environment where the border wall will be deployed. "Environment" is intended to be a broad term. It includes not just elements like the geography and location, but also the nature of the law enforcement mission near the border. The Government will evaluate the rigor and reliability of the offeror's approach to demonstrate compliance with design requirements. The Government will also assess the soundness, effectiveness, completeness, and extent to which the offeror's 60% prototype design and construction approach accommodates and adjusts based on the environment, and how construction of a wall impacts on a wide range of considerations. Those considerations include, but are not limited to, terrain, geology, hydrology, wildlife, environmental preservation, weather, human activity, and aesthetic treatment<sup>1</sup> of U.S. facing exterior wall. The Government will assess how well the offeror has demonstrated an understanding of the Border Patrol's operational mission, and how the design and construction of a wall impacts that mission. The Government will evaluate whether or not the offeror has presented ideas for wall design that will enhance the effectiveness of a wall in support of the Border Patrol and as part of a broader system of elements that contribute to border security. The Government will assess the likelihood that the offeror's product will be of benefit to the United States Border Patrol.

A highly confident offer will have characteristics including, but not necessarily limited to, outstanding awareness of the broad border environment that is substantiated and reinforced by experience with similar types of construction projects in similar environments; a reflection of that understanding in the proposed approach to design and construction of a border wall; an outstanding understanding of how the presence of a wall or other infrastructure will influence the ability of the Border Patrol to perform its mission; an



outstanding understanding of the importance of reliability, strength, durability, susceptibility to damage, and ability to make repairs; and a presentation of innovative thinking and concepts that would significantly enhance the United States Border Patrol’s effectiveness.

<sup>1</sup>Aesthetic Treatment – also commonly referred to as “architectural treatment”, refers to the overall form of the wall, its features such as the wall cap, wall columns, end treatments, and safety shapes. It also refers to the incorporation of color, texture, pattern, and/or imagery to the surfaces of the “Other Border Wall Prototype” structure to improve their appearance and integrate them into their surrounding urban or natural environment.

**Factors 1-1, 1-2, 1-3, 2-1, and 2-2**

In evaluating Factors 1-1, 1-2, 1-3, 2-1 and 2-2, the Government will consider the offeror’s approaches and the risks associated with the approaches proposed by the Offeror to arrive at a confidence assessment of the Offeror’s likelihood of successfully performing the work and meeting the RFP’s objectives. The table below shows the ratings the Government will assign in its evaluation of these factors.

RATINGS FOR FACTOR 1-1, 1-2, 1-3, 2-1 and 2-2	
Rating	Definition
High Confidence	The Government has high confidence that the Offeror understands the requirement, proposes a sound approach, and will be successful in performing the contract with little or no Government intervention.
Some Confidence	The Government has some confidence that the Offeror understands the requirement, proposes a sound approach, and will be successful in performing the contract with some Government intervention.
Low Confidence	The Government has low confidence that the Offeror understands the requirement, proposes a sound approach, or will be successful in performing the contract even with Government intervention.

Note that for Factor 2-1 and 2-2, the confidence rating will be assigned based on the evaluation of the Offeror’s written submission *and* the Offeror’s oral presentation for each factor.

**Factor 2-3 – Past Performance**

The Government will determine its level of confidence in the ability of the Offeror to meet or exceed the requirements based on an evaluation of the Past Performance Questionnaires (PPQs). To evaluate the PPQs, the Government will evaluate the PPQs submitted in Attachment #3 (Past Performance Questionnaire (PPQ)), reserving the right to conduct telephone interviews with the Point of Contacts submitted for each project, and assess a confidence rating according to the table below. The Government may also consider past performance reports available on other past performance databases, such as the Past Performance Information Retrieval System (PPIRS), the Construction Contractor Appraisal Support System (CCASS), and the Contractor Performance Assessment Reporting System (CPARS), as part of its evaluation.

The past performance evaluation conducted for Factor 2-3 is in addition to the Contracting Officer’s Determination of Prospective Contractor Responsibility that will be conducted in accordance with FAR 9.1.

RATINGS FOR FACTOR 2-3	
Rating	Definition
High Confidence	The Government has high confidence that the Offeror will successfully perform the required effort with little or no Government intervention.
Some Confidence	The Government has some confidence that the Offeror will successfully perform the required the required effort with some Government intervention.
Low Confidence	The Government has low confidence that the Offeror will be able to successfully perform the required effort based on recent/relevant past performance even with Government intervention.
Neutral Confidence	No recent/relevant past performance is available, or the Offeror’s performance record is so sparse, such that a meaningful confidence rating cannot be assigned. The Offeror may not be evaluated favorably or unfavorably on the factor of past performance.

**Factor 2-4 – Small Business Subcontracting Plan**

For Factor 2-4, Small Businesses will not be assigned a rating by the Government. All large businesses will be evaluated for this factors as follows:

The Government will assess the offeror’s understanding, commitment, and past history of small business participation that will assist CBP in meeting their Small Business goals.

Reflects a valid corporate commitment between all parties in providing subcontracting opportunities for small business, small disadvantaged business, women-owned small business, Hubzone small business, and service-disabled veteran owned concerns. It is more advantageous to demonstrate specific, binding commitments for substantive work for this proposed effort;

The Government will assess how successful the offeror has been in meeting and/or exceed their subcontracting goals on previously performed contracts.

Reflects compliance with CBP goals listed in Section L

SMALL BUSINESS	38%
SMALL DISADVANTAGED	5%
WOMAN OWNED	5%
HUBZONE	3%
SERVICE DISABLED VETERAN OWNED	3%

The Offeror demonstrates realistic targets expressed in dollars and in percentages of the total proposed subcontracting dollars for each category listed above;

The Offeror demonstrates realistic targets for the SDB Participation Program expressed in dollars and percentages of total contract value for the authorized NAICS Industry Subsectors with respect to SDB participation in accordance with FAR 19.12; and

The Offeror’s subcontracting plan meets the requirements of FAR 19.7. This is not an evaluation criterion, it is a basic contract requirement.

The Government will evaluate the Offeror’s signed letter of mentor-protégé agreement approval from the DHS Office of Small Business and Disadvantaged Business Utilization (OSDBU), which is applicable only to large businesses. Small business offerors will receive the same amount of credit for being a small business (in accordance with the NAICS code and size standard identified on the SF 1449) as large businesses who provide a signed letter of mentor-protégé agreement approval from the DHS OSDBU.

The Government will determine its level of confidence in the ability of all Offerors (both large and small businesses) to meet or exceed the small business goals for this requirement based on an evaluation of the small business subcontracting plan.

RATINGS FOR FACTOR 2-4	
Rating	Definition
High Confidence	The Government has high confidence that the Offeror will meet or exceed the small business subcontracting goals included in the requirement.
Some Confidence	The Government has some confidence that the Offeror will meet or exceed the small business subcontracting goals included in the requirement.
Low Confidence	The Government has low confidence that the Offeror will meet or exceed the small business subcontracting goals included in the requirement.

**Factor 2-5 – Price**

Price will be evaluated for fairness and reasonableness through the use of price analysis. The price evaluators will also check for appearance of unbalanced line item prices. Offerors are cautioned to distribute direct costs, such as material, labor, equipment, subcontracts, etc. and to evenly distribute indirect costs, such as job overhead, home office overhead, bond, etc., to the appropriate contract line items. The prime shall presume that field overhead costs through the proposed contract duration are inclusive in the offered price for the contract.

**M.7 Substantiating Evidence**

The Government will consider substantiating evidence in applying the Evaluation Factors. Substantiating evidence may be used in the evaluation of all evaluation factors. Offerors are expected to substantiate claims in their proposal.

Examples of substantiating evidence include:

- Capabilities that are described by offerors in Phase II. Note: This bullet applies only to offerors within the Phase II.
- Analysis combined with outcomes, in which the analysis and outcomes support proposal claims.

[END OF SECTION M]

# Attachment #1:

SOW

# **BORDER WALL DESIGN/BUILD IDIQ CONTRACT**

## **SECTION C – DESCRIPTION/SPECIFICATIONS/WORK STATEMENT**

### **ARTICLE C.1 – INTRODUCTION**

CBP seeks highly qualified Contractors to assist in the development of a new border wall design standard as well as construct border wall and supporting tactical infrastructure/technology along the southwest border. CBP seeks highly qualified Contractors to propose a border wall using an innovative approach to meet or exceed CBP's performance requirements. The proposed prototype designs shall not include the use of proprietary design or equipment. Prototypes must offer designs that are alternatives to solid concrete walls.

CBP plans to enter into multiple-award, indefinite-delivery, indefinite-quantity (IDIQ), task order contracts for Border Wall Design/Build Construction. The IDIQ may include various, simultaneous task orders ranging from \$100,000 up to \$275,000,000 per task order.

CBP anticipates awarding IDIQ contracts to multiple Contractors. All selected Contractors will be awarded one (1) task order to construct its proposed prototype. All selected Contractors may also be provided an opportunity to propose on future task order requirements that are anticipated to be both design build and design bid build task orders for border wall and supporting tactical infrastructure and technology along the southwest border. Tactical infrastructure includes: access and patrol roads, fencing, drainage structures, motorized vehicle gates, light-emitting diode (LED) lighting, fiber optics and communication towers. Technology could include remote video surveillance systems (RVSS), ground sensors, etc.

### **ARTICLE C.2 – BACKGROUND**

The Border Patrol and Air and Marine (BPAM) Program Management Office (PMO), within the Office of Facilities and Asset Management (OFAM), manages the planning, leasing, construction and sustainment of real property for the United States Border Patrol (USBP) and Air and Marine Operations (AMO) facilities and tactical infrastructure (TI). Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), as amended, 8 U.S.C. § 1103, provides the Department of Homeland Security with the key authority to construct – in the most expeditious manner possible – the infrastructure necessary to deter and prevent illegal entry on our southwest border. Additionally, Executive Order 13767 directs the Government to build a border wall with Mexico. The BPAM PMO is responsible for overseeing the planning and construction of the border wall.

### **ARTICLE C.3 – GENERAL INTENTIONS**

The general intent of this acquisition is to award multiple indefinite-delivery, indefinite-quantity (IDIQ), task order contracts for the design and construction of border wall and associated tactical infrastructure/technology along the southwest border. The first task orders are anticipated to result in the design and construction of prototype walls that at a minimum meet CBP's Border Wall requirements, which are described below. CBP shall use best practices and lessons learned from the prototypes to develop a Government-approved design standard that is intended to serve as the basis for future wall construction.

CBP currently has design standards for its remaining tactical infrastructure components, which shall be provided to the IDIQ holders upon contract award. Tactical Infrastructure is defined in section C.5 Definitions.

## BORDER WALL DESIGN/BUILD IDIQ CONTRACT

### C.3.1 Border Wall Design Considerations:

Individual task order requests for proposals under this IDIQ shall specify requirements for each task order. There are several principal requirements that shall be reflected and incorporated in any design-build activity under this IDIQ. Threshold requirements are intended to be minimums, although the terms of individual task orders may allow flexibility for trade-offs and variations among the threshold requirements and other factors. Objective requirements indicate features that, in addition to the thresholds, have significant value and would substantially enhance the effectiveness of a wall.

#### Threshold Requirements

- 1) The wall design shall be physically imposing in height. The Government's nominal concept is for a 30-foot high wall. Offerors should consider this height, but designs with heights of at least 18 feet may be acceptable. Designs with heights of less than 18 feet are not acceptable.
- 2) It shall not be possible for a human to climb to the top of the wall or access the top of the wall from either side unassisted (~~e.g. via the use of a ladder, etc.~~)
- 3) The wall design shall include anti-climb topping features that prevent scaling using common and more sophisticated climbing aids (e.g. grappling hooks, handholds, etc.)
- 4) The wall shall prevent digging or tunneling below it for a minimum of 6 feet below the lowest adjacent grade.
- 5) The wall shall prevent/deter for a minimum of 30 minutes the creation a physical breach of the wall (e.g., punching through the wall) larger than 12-inches in diameter or square using sledgehammer, car jack, pick axe, chisel, battery operated impact tools, battery operated cutting tools, Oxy/acetylene torch or other similar hand-held tools.
- 6) The north side of wall (i.e. U.S. facing side) shall be aesthetically pleasing in color, anti-climb texture, etc., to be consistent with general surrounding environment. The manufacturing/construction process should facilitate changes in color and texture pursuant to site specific requirements.
- 7) The wall design shall be able to accommodate surface drainage.
- 8) The wall design shall be able to accommodate Border Patrol approved design standards for pedestrian and automated mechanized vehicle sliding gates (25 feet and 50 feet).
- 9) The wall design shall be constructible to slopes up to 45 ~~degrees~~percent.
- 10) The wall fittings and fixtures shall be secured on the north side of the wall to shield from external attack.
- 11) The wall design should be cost effective to construct, maintain and repair.

#### Objective Requirements

- 1) Incorporating a see-through component/capability to the wall that facilitates situational awareness but does not negate the requirements listed above is operationally advantageous.
- 2) It is operationally advantageous that the design of first 12 feet of wall height (as measured from the highest adjacent grade) be adaptable to prevent/deter for a period of time greater than 30 minutes up to 4+ hours the creation of a physical breach of the wall (e.g., punching through the wall) larger than 12-inches in diameter or square using sledgehammer, car jack, pick axe, chisel, battery operated impact tools, battery operated cutting tools, propane or butane or other similar hand-held tools.

### C.3.2 Design and Construction Requirements

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The Contractor's design professionals shall be the Designers of Record for all awarded task orders to this IDIQ. They must take full responsibility for the design and must meet professional and regulatory standards. All work provided by the Contractor's Designers of Record shall be prepared by or under the direct supervision of licensed professional Engineers. Final calculations, drawings and specifications shall be affixed with signed and dated professional seals of the Architect or Engineer of Record for each specific professional discipline. Design and preparation of construction documents shall conform to all applicable codes and standards including, but not limited to, those listed within the RFP documents. The Contractor shall be responsible for the wall design. The Contractor shall be responsible for the coordination of design, engineering and construction disciplines in order to fulfill the requirements of this contract and to provide for a complete, integrated and functional design. All below grade utility crossings or other above or below grade interferences shall be coordinated, with any conflicts resolved, by the Contractor prior to start of construction.

The Contractor shall be responsible for the professional quality, code compliance, technical accuracy and coordination of all designs, drawings, specifications, and other documents or publications upon which the construction is based. Any additional Geotechnical information required by the Contractor shall be acquired as part of the design-build proposal. Construction documents shall be sufficient to afford a clear understanding of the construction work required. The work shall be organized in a manner that shall assure thorough coordination between the various details on the drawings and between the drawings and the specifications. The Contractor shall cross-check all work and certify that all conflicts have been reconciled.

The Contractor shall be responsible for the coordination of all Sub-Contractors required to complete construction.

The Contractor shall provide all labor, supervision, tools, materials, equipment, transportation, and management necessary or incidental to provide planning, construction, repair and alterations for CBP.

### **C.3.3 Emergency Circumstances**

The Contractor shall provide the names, job titles, and contact information, to include telephone numbers (business, cell phones, facsimile, pager numbers, etc.) of a senior manager within the Contractor's organization, and a minimum of one similarly qualified alternate to serve as continuously available liaison with the BPAM PMO appointed Wall Program and Project Manager(s). The Contractor shall submit the above information to the Contracting Officer (CO) and Contracting Officer's Representative (COR) by email within two calendar days following receipt of the award. During the contract period, the Contracting Officer and the Contracting Officer's Representative (COR) shall be notified immediately, by email, of any changes regarding the designated liaisons.

### **C.3.4 Prototype Requirements**

The Contractor shall provide for the design and construction of a full-scale prototype. The prototype wall shall be 30 feet long and meet all of the border wall requirements specified herein (with the exception of the drainage, steep slope and gate requirements). Prototypes constructed under this task order must offer designs that are alternatives to reinforced solid concrete walls (i.e. no solid concrete external faces). Alternatives may include, but are not limited to, designs that have differing materials or may not be entirely solid. The prototype will be constructed at a location in San Diego, CA as determined by the Government.

#### **C.3.4.1 Border Wall (Task Order)**

The Contractor shall provide for the design and construction of a 30 ft. long prototype. The prototype shall include the following requirements from section C.3.1 of this Statement of Work:

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### Threshold Requirements

- 1) The wall design shall be physically imposing in height. The Government's nominal concept is for a 30-foot high wall. Offerors should consider this height, but designs with heights of at least 18 feet may be acceptable. Designs with heights of less than 18 feet are not acceptable.
- 2) It shall not be possible for a human to climb to the top of the wall or access the top of the wall from either side unassisted (~~e.g. via the use of a ladder, etc.~~)
- 3) The wall design shall include anti-climb topping features that prevent scaling using common and more sophisticated climbing aids (e.g. grappling hooks, handholds, etc.)
- 4) The wall shall prevent digging or tunneling below it for a minimum of 6 feet below the lowest adjacent grade.
- 5) The wall shall prevent/deter for a minimum of 30 minutes the creation a physical breach of the wall (e.g., punching through the wall) no larger than 12-inches in diameter or square using sledgehammer, car jack, pick axe, chisel, battery operated impact tools, battery operated cutting tools, Oxy/acetylene torch or other similar hand-held tools.
- 6) The north side of wall (i.e. U.S. facing side) shall be aesthetically pleasing in color, anti-climb texture, etc., to be consistent with general surrounding environment. The manufacturing/construction process should facilitate changes in color and texture pursuant to site specific requirements.
- 7) The wall design shall be able to accommodate surface drainage.
- 8) The wall design shall be able to accommodate Border Patrol approved design standards for pedestrian and automated mechanized vehicle sliding gates (25 feet and 50 feet).
- 9) The wall design shall be constructible to slopes up to 45 ~~percent~~degrees.
- 10) The wall fittings and fixtures shall be secured on the north side of the wall to shield from external attack.
- 11) The wall design should be cost effective to construct, maintain and repair.

### Objective Requirements

- 1) Incorporating a see-through component/capability to the wall that facilitates situational awareness but does not negate the requirements listed above is operationally advantageous.
- 2) It is operationally advantageous that the design of first 12 feet of wall height (as measured from the highest adjacent grade) be adaptable to prevent/deter for a period of time greater than 30 minutes up to 4+ hours the creation of a physical breach of the wall (e.g., punching through the wall) no larger than 12-inches in diameter or square using sledgehammer, car jack, pick axe, chisel, battery operated impact tools, battery operated cutting tools, propane or butane or other similar hand-held tools.

#### C.3.4.2 Mock-Up Construction

The Contractor shall design and construct a 10 ft. by 10 ft. mock-up of an exemplar section of its prototype at a location in San Diego, CA as determined by the Government. The mock-up shall replicate the structural design of the prototype's first 10 ft. of above ground wall height (measured from the adjacent ground) and length to allow the Government to test and evaluate the anti-destruct characteristics of the bidder's wall design. The mock-up shall meet all technical requirements except the anti-dig, anti-climb, and aesthetics. The anti-dig and anti-climb characteristics will not be tested with the mock-up. The modified above ground foundation shall not affect the criteria outlined in specifications below.

The mock-up shall include the following requirements from section C.3.4.1 of this Statement of Work:



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- 1) The Contractor shall build the mock-up to reflect the maximum performance contained within the prototype design (i.e., between 30 minutes and 4+ hours).
- 2) The wall fittings and fixtures shall be secured on the north side of the wall to shield from external attack.
- 3) If the prototype wall design includes see-through component/capability then it shall be installed in the mock-up to test its anti-destruct capabilities

The mock-up shall be constructed within two (2) weeks after notice to proceed (NTP) and shall be constructed concurrent to prototype construction. Within seven (7) calendar days of notification of completion of mock-up completion of evaluation by the Government, the Contractor shall remove the structure and dispose of it properly. Disposal includes site clean-up after testing has concluded.

### **C.3.4.3 Project Kick-off Meeting**

The Contractor shall attend a Government led project kick-off meeting eight (8) calendar days after task order award. The Contractor shall provide the following documents at the meeting:

- Detailed Schedule (recommended in Primavera) for the approach of the prototype and mock-up including, but not limited to, the following milestones: fabrication, site preparation, and install/construction to include a progress schedule. Schedule must include approach for completing construction of both the mock-up and prototype within the same thirty (30) calendar day timeline.
- Material and equipment staging plan
- Quality control (QC) plan
- Safety and security plan
- Documentation for personnel as outlined in Article C.1~~10~~ Security

The Contractor shall be prepared to brief the Government on its plan and timeline for construction.

### **C.3.4.4 Prototype Design-Build**

The purpose of the selected prototypes is to allow CBP to evaluate the features of the Contractor's design for potential inclusion in a border wall standard to be developed by the Government immediately following the construction and evaluation of the prototype designs.

The Contractor shall develop a design that meets the requirements cited in section C.3.4.1 excluding surface drainage and gates. The Contractor shall demonstrate that the design meets the requirements through the use of industry accepted practices.

- The Contractor shall conduct a final high-level design review with the Government at the project kick-off meeting.
- The Contractor shall follow all quality control and safety plans provided to the Government during the contract kick-off meeting.
- The Contractor shall be prepared to mobilize within one (1) week of contract award. Contractor shall not begin construction until Notice to Proceed (NTP) is issued. Once given NTP, Contractor shall complete prototype construction within thirty (30) calendar days.
- The Contractor shall ensure the design is compatible with the geography, terrain, and other characteristics of the prototype location. A Government provided geotechnical report will be

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provided with the Phase II solicitation. Additionally, the Government will hold a site visit at the prototype location seven (7) calendar days after the release of the Phase II solicitation.

- The Contractor shall produce and deliver to the Government the 95% design package within seven (7) calendar days of contract award.
- The Contractor shall be responsible for any staging areas as required at an offsite location. (I.e. no staging on the border will be made available by the Government).

### **C.3.4.5 Disposal**

If, upon completion of its evaluation, the Government directs the Contractor to remove the prototype and dispose of it properly off-site, then the Contractor shall restore the site to the previously existing conditions. The Contractor shall complete the removal and restoration within fourteen (14) calendar days of notification by the Government.

### **C.3.4.6 Deliverables**

Upon completion of the Prototype construction, the Contractor shall provide the Government 100% “as-built” designs.

Construction of a 10 ft. wall segment mock-up as defined in section C.3.4.2.

Removal of the mockup and site restoration as defined in section C.3.4.2.

Construction of a 30 ft. long prototype wall as defined in section C.3.4.1.

Removal of the prototype and site restoration as defined in section C.3.4.5.

Detailed Schedule as defined in 3.4.3

Material and Equipment Staging Plan as defined in 3.4.3

Quality Control (QC) Plan as defined in 3.4.3

Security Plan as defined in C.11 and C.11.1

Documentation for personnel as outlined in Article C.11 Security

Health and Safety Plan as defined in C.11

### **C.3.4.7 Government Furnished Information**

Geotechnical site information for the prototype efforts will be provided in Phase II of the solicitation for the Contractor’s use. Additionally, the Government will provide 10 ft. contour topographic information of the site. This information is not site specific data and should be used for informational purposes only.

Best Management Practice (BMP) requirements for meeting all environmental considerations in the construction area will be provided in Phase II of the solicitation.

## **ARTICLE C.4 – CBP LOCATIONS**

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Task orders under this contract may be performed at any of the following locations in the vicinity of the U.S. border with Mexico:

Southwest border in California, Arizona, New Mexico, and Texas

### **ARTICLE C.5 – DEFINITIONS**

- a) **Access Roads.** Access roads generally provide access from public roads to the border patrol roads and to TI not accessible from a border road. Access roads are typically one-lane roads with pullouts and turnarounds to accommodate two-way traffic. The width of the access roads shall be 12 feet for one-lane roads but shall widen to 16 feet at curves and points of short sight distance. Access road width and pullout placement shall be designed to allow safe passing of two vehicles at the same time. The maximum width of access roads shall be 16 feet. Access roads are typically constructed of graded aggregate or native materials.
- b) **Border Lighting.** Border lights typically consist of LED (Light-Emitting Diode) fixtures mounted on poles to illuminate areas along and in proximity to the border to facilitate Border Patrol enforcement activities.
- c) **Contracting Officer.** “Contracting officer” means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer. “Termination contracting officer (TCO)” refers to a contracting officer who is settling terminated contracts. A single contracting officer may be responsible for duties in any or all of these areas. Reference in this regulation (48 CFR Chapter 1) to administrative contracting officer or termination contracting officer does not:
  - 1. Require that a duty be performed at a particular office or activity; or
  - 2. Restrict in any way a contracting officer in the performance of any duty properly assigned.
- d) **Contracting Officer’s Representative.** Person(s) designated by the Contracting Officer to be the authorized Government representative in charge of the project.
- e) **Contractor.** The term Contractor as used herein refers to both the prime Contractors and any of their subcontractors. The Contractor shall ensure that subcontractors comply with the provisions of this contract.
- f) **Contractor Representative.** A supervisor, superintendent, or manager assigned in accordance with the clause entitled SUPERINTENDENCE BY THE CONTRACTOR.
- g) **Drainage Structures.** Required to accommodate surface run-off and concentrated conveyance of storm water in a manner that keeps the border accessible to CBP during precipitation events.

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- h) Fiber Optics Cable. Fiber optics cabling is typically installed in proximity to wall or fence and is used by CBP to facilitate telecommunications. CBP's OIT is responsible for providing and installing any electronics associated with the fiber optics cable.
- i) Gates. Gates in fencing and walls are needed to access International Boundary & Water Commission (IBWC) border monuments; accommodate large quantities of concentrated storm water run-off; and accommodate passage of authorized vehicles and personnel. The gates are manually operated with the exception of vehicle gates, which can be mechanized and automated if required.
- j) Patrol Roads. Border patrol roads are generally oriented parallel with the border and are used for direct enforcement of the border. Border roads are typically 20 feet wide and are posted for 25 miles per hour travel. These roads shall be designed to allow safe passing of two vehicles at the same time. The roads are constructed of asphalt, concrete or graded aggregate depending on the topography and geotechnical conditions.
- k) Quality Assurance (QA). A method used by the CBP to provide some measures of control over the quality of purchased goods and/or services received.
- l) Quality Control (QC). A method used by the Contractor to control quality of goods and/or services produced.
- m) Scope of Work. Refers to a specific job which shall be ordered by an individual task order.
- n) Tactical Infrastructure (TI). TI are physical components designed to assist the Border Patrol in securing the border. These components include but are not limited to wall, fence, roads, gates, bridges, lights, boat ramps, and grates. TI facilitates deterrents and acts as an impediment that slows, delays, contains and serves an obstacle to illicit cross-border activities.
- o) Task Order. "Task order" means an order for services placed against an established contract or with Government sources.
- p) Telecommunications Towers. Towers ranging from 80 feet to several hundred feet used by CBP to provide tactical communications for Border Patrol command and control and safety. Towers shall include a shelter for equipment as well as a power supply, in some cases requiring solar power where electrical service is not available.
- q) Wall. An 18-30ft. tall barrier designed to prevent illegal entry and drug

### **ARTICLE C.6 – SCOPE OF WORK – DESIGN-BUILD PLANNING SERVICES**

For Design-Build requirements, the Contractor shall provide Architectural and Engineering (A-E) planning services. A-E services that are not part of a design-build requirement are not allowed under this contract. The Contractor is required to provide detailed surveying, site layout work, shop drawings, drawings and sketches, drawings detail expansion, engineering calculations, and other related work as required to properly prepare and accomplish all design-build work. The Design-Build Contractor shall be responsible for the coordination of design, engineering and construction disciplines in order to fulfill the requirements of this contract and to provide for a complete, integrated and functional design. All below grade utility crossings or other above or below grade interferences shall be coordinated, with any

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conflicts resolved, by the Contractor prior to start of construction. Construction documents shall be sufficient to afford a clear understanding of the construction work required. The work shall be organized in a manner that shall assure thorough coordination between the various details on the drawings and between the drawings and the specifications. The Contractor shall cross-check all work and certify that all conflicts have been reconciled. These guidelines establish the minimum level of quality and CBP-specific requirements for all design and construction projects at CBP. The minimum requirements in this document, as modified by project-specific variances, shall be thoroughly coordinated and reflected in the drawings and specifications. The Contractor shall also comply with the latest edition of all applicable national building codes and regulations. The degree of work may vary depending on the complexity of individual projects. Project record drawings are not considered A-E planning services. Record drawings shall be provided upon the completion of every task order.

Computer-Aided Drafting and Design. Drawings shall be prepared using the latest AutoCAD release. The drawing submission shall include hard copy and electronic documents. Quantity, size and format to be specified in task order.

Plans and Specifications. The A-E shall develop project-specific plans and specifications. The A-E shall develop the new specification using the latest version of the AIA (American Institute of Architects) Master specs as the baseline. Provide ten (10) hardcopy and electronic version in Microsoft Word and Adobe PDF. Quantity, size and format (including pdf) to be specified, as applicable, in each task order.

### **ARTICLE C.7 – SCOPE OF WORK – CONSTRUCTION SERVICES**

Specifications shall be provided to the Contractor and shall be utilized under this contract, unless otherwise directed by the Contracting Officer.

The Contractor shall be responsible for, but not limited to, the following services:

- 1) Construction services. Construction services shall be provided in response to individual task orders. The work described herein extends beyond the conventional, single project construction concept in that it may involve the planning, scheduling, coordination, procuring, and installation of a fluctuating series of related tasks.
- 2) Work and Services. The work to be performed under this contract shall include furnishing all labor, materials, supervision, coordination, miscellaneous equipment and materials required for full and complete execution of the work as defined herein and the attached standard details.
- 3) The Contractor shall perform all management, supervision, and other administrative activities necessary to assure performance in strict compliance with the terms and conditions of this contract.
- 4) The Contractor shall provide all labor, materials, equipment, supplies, permits, fees, and consultant services required to construct and install the border wall and associated tactical infrastructure including but not necessarily limited to access roads, patrol roads, fiber optics cable, drainage structures, border lighting, and tactical communication towers.
- 5) The Contractor shall be responsible for the professional quality, code compliance, technical accuracy and coordination of all designs, drawings, specifications and other documents or publications upon which the construction is based.

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- 6) All survey work performed by the Contractor, including but not limited to construction staking, topographic survey, and as-built drawings, during the design and construction shall be performed under the direction of a licensed professional Surveyor.
- 7) All construction required of the Contractor to complete the construction of the prototype and resulting task orders (if any), as well as any associated tactical infrastructure and technology insertions or add-ons, shall be in accordance with the criteria contained herein using industry standard materials and efficient practices. The Contractor shall buy materials and equipment accepted within the construction industry. The materials selected shall be of high quality, durable and easily maintained.
- 8) Beginning on the date of Notice to Proceed (NTP) on this contract, the Contractor shall be continuously available to Custom and Border Protection's representatives for response to requests for information, discussion of contract performance, and other contract administration activities such as billing or payment, etc.
- 9) The Contractor shall be responsible for the coordination of all Sub-Contractors required to complete construction.
- 10) The Contractor shall adhere to all construction related Best Management Practices (BMPs) identified by CBP in each Task Order Award. BMPs outline the Government's requirements for meeting all environmental considerations in the construction area. The Contractor shall be required to participate in CBP-provided BMP awareness training at the kickoff of the project. CBP shall conduct routine monitoring of BMP implementation during construction activities. The Contractor shall be required to immediately correct any non-compliant BMP upon notification by CBP.
- 11) Neither the Contractor, nor the Contractor's representatives, shall release any report, data, specification, photograph, cost estimate, nor other information in any form obtained or prepared under this contract without prior written approval of the Contracting Officer.
- 12) Upon completion of any construction project awarded under the IDIQ, the Contractor shall submit Final As-Built Drawings and Specifications. Other construction records, including requests for information (RFI) and QA/QC documents, shall be submitted in Adobe Acrobat PDF format.
- 13) Record Documents. During the progress of the job, the Contractor shall keep a careful record at the job site of all changes and corrections from the layouts shown on the drawings. The Contractor shall enter such changes and corrections on contract record drawings and shall indicate, in addition to all changes and corrections, the actual location of all sub-surface utility lines. In order that the location of the lines and appurtenances may be determined in the event the surface openings or indicators become covered over or obscured, the record drawings shall show, by offset dimensions to two permanently fixed surface fixtures, the end of each run, and each change in direction. Valve, splice boxes, and similar appurtenances shall be located by dimensioning along the utility run from a reference point. The average depth below the surface of each run shall also be recorded. At the time of final acceptance of each structure or facility involved under the contract, the Contractor shall submit to the Contracting Officer record documents.
- 14) Record of Materials. The Contractor is required to furnish a record of materials used in the construction upon completion of each task order. The deadline for submission of the record of materials will be specified at the task order level. Submission of this data is a condition

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for final payment. Where several manufacturers 'brands, types, or classes of the item listed have been used in the project, the specific areas where each item was used shall be designated. Designation shall key to the areas and spaces depicted on the record drawings.

- 15) Contractor's Management and Supervision. The Contractor shall provide and maintain a professional staff for the management and supervision of all task orders. The Contractor is solely responsible for obtaining any other services deemed necessary for effective execution of task orders.

### **ARTICLE C.8 – DESIGN AND CONSTRUCTION SCHEDULE**

Within seven (7) calendar days of receipt of any task order award (including the prototype task order), the Contractor shall submit a proposed design and/or construction schedule for review and approval by the Contracting Officer's Representative. The schedule shall be approved in writing by the Contracting Officer's Representative before any work is started. The schedule shall be prepared in Critical Path Method (CPM) – program based format following the outline of the component divisions and subsections of the project specifications. The schedule shall be prepared in Primavera (or equivalent scheduling software) in sufficient size and detail to clearly indicate the following:

The schedule shall include the proposed sequence of design and construction including required phasing of the work the design and construction submissions (e.g. design submissions, shop drawings, samples, and other submittal information). This should include projected submittal approval dates (allow ten (10) working days for review) and material delivery dates. Contractor shall provide Work Breakdown Schedule (WBS) for approval which shall include the activity identification system for labeling all work activities. Costs assigned to all activities shall equal the contract value, including material and equipment.

The Project Schedule shall include time scaled network diagrams; computer generated mathematical analysis reports, and associated reports as required by this Specification section. The mathematical analysis reports shall include, at a minimum, the following information:

- 1) Activity number(s) and descriptions;
- 2) All WBS codes;
- 3) Original and remaining durations for each activity;
- 4) Early start by calendar date;
- 5) Early finish by calendar date;
- 6) Late start by calendar date;
- 7) Late finish by calendar date;
- 8) Actual start by calendar date;
- 9) Actual finish by calendar date
- 10) Total float in work days;
- 11) Monetary value of each activity;
- 12) Percentage of activity complete linked to remaining duration;
- 13) Contractors earnings, based on the Contractors reported portion of activities completed and accepted; and
- 14) Imposed constraints.

All requirements shall be specified on a task order basis.

### **ARTICLE C.9 – CONTRACTOR QUALITY CONTROL (CQC) PROGRAM**

A general description of the CQC Program shall be available for CBP review during the pre-award survey. Two copies of the complete CQC Program shall be provided to the Contracting Officer for

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review and approval within thirty (30) calendar days after award of the master contract and as changes are made thereafter. The program shall include:

- 1) A quality control inspection system covering all contract services. It must specify areas to be inspected on both a scheduled or unscheduled basis and how inspections are to be conducted.
- 2) The name(s) and qualifications of the individual(s) tasked to perform the quality control inspections, and the extent of their authority.
- 3) A method for identifying deficiencies in the quality of services performed and taking corrective action before the level of performance becomes mandatory.

A file of all Quality Control Inspections, Inspection results, and any corrective action required, shall be maintained by the Contractors throughout the term of this contract. This file shall be the property of the CBP and shall be made available to the Contracting Officer within one (1) hour of request. The file shall be turned over to the Contracting Officer within five (5) calendar days after completion/termination of the task order and prior to final payment.

### ARTICLE C.10 KEY PERSONNEL

The Contractor shall provide key personnel as defined below.

#### Construction Superintendent:

Coordinates and oversees completion of the construction of the project. Manages the site for the Contractor and serves as field point of contact for the construction effort. Provides construction reports as per this statement of work. Coordinates scheduling of site activities with Government Project Manager and site representatives. The credentials of the proposed Construction Superintendent(s) will be reviewed to ensure they have at least ten (10) years of experience on construction projects. Provides list of employees in time to complete vetting and ensures only CBP vetted personnel are on job site.

#### Project Manager:

Coordinates and oversees completion of activities in all phases of the project. Manages the entire project and serves as the main contact for the Government for the project design and construction effort. Integrates and coordinates the project with design and field personnel. Ensures site personnel work with Government project team for scheduling of deliveries and construction activities. The credentials of the proposed Project Manager will be reviewed to ensure they have a technical degree or a degree/experience in a related technical field, such as business/management, and/or equivalent experience, and at least five (5) years of experience on construction projects.

~~The credentials of the proposed Project Manager will be reviewed to ensure they have a technical degree and/or equivalent experience, and at least five (5) years of experience on construction projects. The credentials of the proposed Project Manager will be reviewed to ensure they have a bachelor's degree in engineering or related technical field or business/management. Additionally, a minimum of 5 years post graduate experience managing and supervising construction projects is required.~~

#### Lead Designer:

Serves as design lead for project. Primary design contact to Government to provide all information requested to satisfy design requirements. Must be a licensed professional engineer. Ensures design meets or exceeds all Government requirements. The credentials of the proposed Lead Designer will be reviewed to ensure they are a registered professional engineer. Professional Registration and/or Licensing is required in California, Texas, New Mexico, and Arizona are preferred as well.



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## **ARTICLE C.11 SECURITY**

It shall be the Contractor's responsibility to furnish its own security for personnel and to safeguard its equipment during the entire project lifecycle. This shall include, but not be limited to, the actual project sites and/or staging areas and storage facilities. The Contractor shall install temporary chain link fencing with barbed wire to deter vandalism to the structures when no work is taking place. The U.S. Customs and Border Protection will not provide security for the Contractor, its equipment, or its materials.

As part of the security requirement, the Contractor shall be responsible for the development of a Security Plan in conjunction with the Health and Safety Plan. The detailed Security Plan shall include details such as, but not limited to; "fall back positions," evacuation routines and methods, muster area, medical staff members/availability, number of security personnel, qualifications, years of experience, etc. in the event of a hostile attack. This plan shall be reviewed by Contracting Officer's Representative for inspection and final acceptance prior to construction activities. The Contractor shall bring three (3) copies of the security plan to the pre-construction conference.

Additional Security requirements may be required in future task orders.

The Contractor shall be responsible for submitting a list of all personnel required at the jobsites for verification by CBP prior to conducting activities. Activities include, but are not limited to; site investigations, surveys, and construction. No employee shall be allowed on site until screened and checked for criminal history and proper immigration status. Any personnel having questionable history/backgrounds shall be rejected and not authorized to enter the jobsite. This list marked "CONFIDENTIAL" shall be submitted to the Contracting Officer for forwarding to Border Patrol personnel.

To facilitate the screening and checking of each employee entering in or working on Federal property, the General Contractor shall submit:

- The individual's full name
- Company Name
- Date of Birth (DOB)
- Social Security Number
- Driver's License and/or State Identification Number
- Place of Birth (POB)

After submission of requirements stated above, the Contractor shall proceed with all work unless further notified by the Government.

Employee Identification Badges: Contractor personnel shall wear visible Contractor-furnished employee identification badges while physically on the construction site. Each badge shall include, as a minimum, the company name, employee name, photograph of employee, Contract Title, Contract Number, and the expiration date of the badge.

### **D) Reporting of New and Departing Employees**

The Contractor shall notify the Contracting Officer Representative (COR) and Contracting Officer within five (5) working days of staffing changes.

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- i. New Employees: Provide the individual's full name, Company Name, Date of Birth (DOB), Social Security Number, Driver's License and/or State Identification Number, Place of Birth (POB)
- ii. Departing Employees: Provide the name and position title, and security clearance level held by or pending for the individual

### **C.11.1 Prototype Site Security**

The Contractor shall ensure all personnel employed on the construction activity become familiar with and obey construction regulations including safety, fire, traffic and security regulations. The Contractor shall also ensure all personnel keep within the limits of its designated worksite and avenues of ingress and egress. Ingress and egress of Contractor vehicles at the construction site is limited to the Contractor's gate. Hard hats must be worn in designated areas. No personnel shall enter any restricted areas unless required to do so and until cleared for such entry. The Contractor's equipment shall be conspicuously marked for identification.

## **ARTICLE C.12 REPORTING REQUIREMENTS**

### **1) TECHNICAL PROGRESS REPORTS**

In addition to the required reports set forth elsewhere in this Statement of Work, the preparation and submission of regularly recurring Technical Progress Reports shall be required in any contract resulting from this solicitation. These reports shall require descriptive information about the activities under taken during the reporting period and shall require information about planned activities for future reporting periods. The frequency and specific content of these reports shall be determined prior to contract award for monitoring of the overall IDIQ contract and on a task order basis for each awarded task basis.

For proposal preparation purposes only, it is estimated that in addition to the required electronic version(s) five (5) hard copies of these reports shall be required as follows:

- Weekly
- Quarterly
- Semi-Annually
- Annually
- Annually (with a requirement for a Draft Annual Report)
- Final - Upon final completion of each task order
- Final - Upon final completion of the contract (with a requirement for a Draft Final Report)

### **2) OTHER REPORTS/DELIVERABLES**

All required reports and deliverables shall be specified in each task order issued by the Government.

## **ARTICLE C.13 SPECIAL CONSIDERATIONS**

## **BORDER WALL DESIGN/BUILD IDIQ CONTRACT**

Neither the Contractor nor any subcontractor or representative thereof shall release or publish any sketch, photograph, report or other material of any nature derived or prepared under any resulting task order without specific written permission of the Contracting Officer except as specifically provided in the SOW.

Copyright shall not be claimed by the Contractor for any materials produced under any resulting task order. All such materials are to remain within the public domain.

The Contractor and those in its employ may not, during the term of the agreement, present reports of research from this project to various professional societies and publications. Abstracts and copies of these reports, presentations, or articles utilizing work sponsored by any resulting task order shall be provided to the Contracting Officer for approval prior to publication or presentation.

In the event the Contractor encounters problems in fulfilling performance requirements, or when difficulties are anticipated in complying with any task order schedule or dates, or whenever the Contractor has knowledge a potential situation is delaying or threatening to delay timely performance of tasks, the Contractor shall immediately notify the Contracting Officer by phone and in writing noting all relevant details.

The Government requires unlimited rights in any material first produced in the performance of this Contract, in accordance with the FAR clause at 52.227-17. In addition, for any material first produced in the performance of this contract, the materials may be shared with other agencies or contractors during the period of performance of any resulting task order, or after its termination. For any subcontractors or teaming partners, the Contractor shall ensure at proposal submission that the subcontractors and /or teaming partners are willing to provide the data rights required under any resulting task order.

**END OF STATEMENT OF WORK**