



# **AMS Master Solicitation for Commodity Procurements – International Programs (MSCP-I)**

**for International Food Assistance Program Purchases**

***Effective: October 23, 2024***

USDA, Agricultural Marketing Service  
Commodity Procurement Program  
1400 Independence Ave., SW, Room 3522-S, STOP 0239  
Washington, DC 20250-0239

An Equal Opportunity Provider and Employer

**General Updates**

Page	Text	Change
12	"This version of the Master Solicitation incorporates FAR provisions and clauses in effect through _____"	Updated to <b>FAC 2024-06</b> .

**Contract Clauses and Provisions Updated**

FAC 2024-03 FAR Case 2022-009

Clause/Provision Number	Clause/Provision Name	Provision or Clause	Change
52.204-8, (c)(1)(xxi)(B) and (c)(1)(xxi)(C)	Annual Representations and Certifications (Feb 2024)	Provision	Amend section 52.204-8 by— a. Revising the date of the provision; b. Removing from paragraph (c)(1)(xxi)(B) "\$92,319" and adding "\$100,000" in its place; and c. Removing from paragraph (c)(1)(xxi)(C) "\$92,319" and "\$100,000" and adding "\$100,000" and "\$102,280" in their places, respectively.
52.219-1,(a), (c)(6), (c)(7), (c)(8), (c)(9), and Alternate I	Small Business Program Representations (Feb 2024)	Provision	Amend section 52.219-1 by— a. Revising the date of the provision; b. In paragraph (a): i. Removing the definition of "Service-disabled veteran-owned small business concern" and adding the definition of "Service-disabled veteran owned small business (SDVOSB) concern" in its place; and ii. Adding in alphabetical order the definitions of "Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program" and "Service-disabled veteran-owned small business (SDVOSB) Program"; c. Revising paragraphs (c)(6) and (7); d. Redesignating paragraphs (c)(8) as paragraph (c)(9) and adding a new paragraph (c)(8); e. Revising the introductory text of newly redesignated paragraph (c)(9); and f. In Alternate I: i. Revising the date of the alternate; ii. Removing from the introductory text "(c) (9)" and adding "(c)(10)" in its place; and iii. Redesignating paragraph (c)(9) as paragraph (c)(10).

52.219-8,(a), (c)(1)(ii) and (c)(2)	Utilization of Small Business Concerns (Feb 2024)	Clause	Amend section 52.219-8 by— a. Revising the date of the clause; b. In paragraph (a): i. Removing the definition of “Service-disabled veteran-owned small business concern” and adding the definition of “Service-disabled veteran owned small business (SDVOSB) concern” in its place; and ii. Adding in alphabetical order the definitions of “Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program” and “Service-disabled veteran-owned small business (SDVOSB) Program”; iii. Removing from paragraph (1) in the definition of “Veteran-owned small business concern” the text “51 percent of which is owned” and adding the text “51 percent of which is owned and controlled” in its place; c. Adding to the end of paragraph (c)(1)(ii) “(See 13 CFR 125.9(d).)”; and d. Revising paragraph (c)(2).
52.219-27	Notice of Set-Aside for, or Sole-Source Award to, Service-Disabled Veteran-Owned Small Business (SDVOSB) Concerns Eligible Under the SDVOSB Program (Feb 2024)	Clause	Revise section 52.219-27.
52.219-28 and (h)(8)	Post-Award Small Business Program Rerepresentation (Feb 2024)	Clause	Amend section 52.219-28 by— a. Revising the date of the clause; and b. Redesignating paragraph (h)(8) as paragraph (h)(9) and adding a new paragraph (h)(8).
52.225-3, Alternate III definition "Korean end product", and paragraph (c)	Buy American-Free Trade Agreements-Israeli Trade Act (Nov 2023)	Clause	Amend section 52.225-3 in Alternate III by: a. Revising the date and introductory text of Alternate III; b. Deleting the definition “Bahraini, Korean, Moroccan, Omani, Panamanian, or Peruvian end product” and adding the definition “Korean end product”; and c. Revising paragraph (c).
52.225-4, Alternate III	Buy American-Free Trade Agreements-Israeli Trade Acts Certificate (Nov 2023)	Provision	Amend section 52.225-4 by revising Alternate III.

52.244-6 and (c)(1)(x)	Subcontracts for Commercial Products and Commercial Services (Feb 2024)	Clause	Amend section 52.244-6 by— a. Revising the date of the clause; and b. Removing from paragraph (c)(1)(x) “(SEP 2023)” and adding “(FEB 2024)” in its place.
<b>FAC 2024-05 FAR Case 2022-006</b>			
<b>Clause/ Provision Number</b>	<b>Clause/Provision Name</b>	<b>Provision or Clause</b>	<b>Change</b>
52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper (May 2011)	Clause	Remove and reserve section 52.204-4.
52.204-8 (c)(1)(xvii) and (c)(1)(xix)	Annual Representations and Certifications (May 2024)	Provision	Amend section 52.204-8 by— a. Revising the date of the provision and paragraph (c)(1)(xvii); b. Removing from the end of paragraph (c)(1) (xix) the parenthesis; c. Removing paragraph (c)(2)(vi); and d. Redesignating paragraphs (c)(2)(vii) and (viii) as paragraphs (c)(2)(vi) and (vii), respectively.
52.211-5	Material Requirements (Aug 2000)	Clause	Amend section 52.211-5 by removing from the introductory text “11.304” and adding “11.302” in its place.
52.223-6	Drug-Free Workplace (May 2024)	Clause	Redesignate section 52.223-6 as section 52.226-7.
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (May 2024)	Clause	Redesignate section 52.223-18 as section 52.226-8.
52.226-7 and (d)	Drug-Free Workplace (May 2024)	Clause	Amend newly redesignated section 52.226-7 by— a. Revising the introductory text and the date of the clause; and b. Removing from paragraph (d) “23.506” and adding “26.505” in its place.
52.226-8	Encouraging Contractor Policies to Ban Text Messaging While Driving (May 2024)	Clause	Amend newly redesignated section 52.226-8 by revising the introductory text and the date of the clause.

Technical Updates			
52.222-50	Combatting Trafficking In Persons (Nov 2021)	Clause	Add mandatory clause.
52.204-29	Federal Acquisition Supply Chain Security Act Orders- Representation and Disclosures (Dec 2023)	Provision	Add mandatory provision.
52.204-30	Federal Acquisition Supply Chain Security Act Orders- Prohibition	Clause	Add mandatory clause.
4A52.219-70	Size Standard and NAICS Code Information	Provision	Update Small Business Size Standards
4A52.219-81	The HUBZone Program (Jan 2022)	Clause	Correct clause number.

**AMS Master Solicitation for Commodity Procurements – International Programs (MSCP-I)  
for International Food Assistance Program Purchases**

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# Master Solicitation for Commodity Procurements for International Food Assistance Programs

## I. GENERAL INFORMATION

This solicitation, called the Master Solicitation for Commodity Procurements – International Programs (MSCP-I or “Master Solicitation”), is used by the U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), Commodity Procurement Program (CPP) to provide contract clauses and solicitation provisions applicable to the solicitation of bids and award of contracts for various commodities used in U.S. Government international food assistance programs, such as Food for Peace, Food for Progress, and the McGovern-Dole Food for Education programs. The Master Solicitation also provides general guidance to potential bidders.

CPP will periodically issue invitations for bids (IFB) under this Master Solicitation, available for viewing on the Web Based Supply Chain Management (WBSCM) public procurement page, and through the *Contract Opportunities* domain on [www.sam.gov](http://www.sam.gov). Bidding and contract related actions, such as viewing WBSCM Purchase Orders (i.e., contracts) and shipping instructions, providing Advance Shipping Notices (ASN), and receipting of goods are performed in WBSCM.

The Master Solicitation will be updated as necessary to incorporate changes in the Federal Acquisition Regulation (FAR), Agricultural Acquisition Regulations (AGAR), and AMS policies and procedures. Bidders should not assume that a copy of the MSCP-I, once downloaded for a particular IFB will be applicable for subsequent IFBs. The effective date at the top of the Master Solicitation document will govern which version of MSCP-I is applicable to a particular IFB. Changes to the MSCP-I will be bolded in each version. Prior versions of the MSCP-I will be archived and available on the AMS website.

Awards will be made following the principles in the FAR and AGAR. The IFB will specify the commodity; delivery periods; quantities; the closing time for receipt of bids; acceptance date, and any solicitation provisions and contract clauses applicable to the proposed procurement which are in addition to, or different from, those contained in the Master Solicitation. The full texts of the applicable FAR provisions and clauses incorporated into the contract can be found at <https://www.acquisition.gov/browse/index/far>.

Commodities purchased by AMS must be a product of the United States (see clause 4A52.225-70, U.S. Origin Product). Specifications and program requirements are further defined in the appropriate commodity specification and/or supplement and are incorporated herein.

Offerors are advised to carefully read this Master Solicitation, the applicable IFB, and the applicable commodity requirements document to understand the invitation, evaluation, and award process for CPP commodity acquisitions for international food assistance programs. Failure to do so will be at the offeror’s risk. These documents are incorporated into the contract. Offerors are cautioned that statements made by Government personnel other than the Contracting Officer are not binding on the Government unless confirmed in writing by the Contracting Officer.

To be eligible to submit a bid, a company must be approved by the Contracting Officer as meeting vendor qualification requirements. For information regarding how to become a qualified bidder, visit the [vendor qualification webpage](#), or contact the Contracting Officer.

**This version of the Master Solicitation incorporates  
FAR provisions and clauses in effect through FAC 2024-06**

**II.CONTRACT CLAUSES**

**4A52.202-90 Additional Definitions Applicable to this Solicitation (June 2021)**

- (a) *Agricultural commodity* means commodities and the products of agricultural commodities produced in the United States. A product shall not be produced in the United States if it contains any ingredient that is not produced in the United States, if that ingredient is:
  1. Produced in the United States; and
  2. Commercially available in the United States at fair and reasonable prices from domestic sources.  
(Authority 7 U.S.C. 1732(2), 1736o-1(a), and AGAR 470.103)
- (b) *Commingled product* means grains, oilseeds, rice, pulses, other similar commodities and the products of such commodities, when such commodity or product is normally stored on a commingled basis in such a manner that the commodity or product produced in the United States cannot be readily distinguished from a commodity or product not produced in the United States.
- (c) *Commodity Credit Corporation (CCC)* means a wholly owned government corporation within the U.S. Department of Agriculture(USDA).
- (d) *Federal Holiday* means legal public holidays observed by the Federal Government in accordance with 5 USC 6103. The Federal Government observes the following days as holidays:

New Year’s Day	January 1 <sup>st</sup> *
Martin Luther King’s Birthday	Third Monday in January
Presidents’ Day	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth National Independence Day	June 19 <sup>th</sup> *
Independence Day	July 4 <sup>th</sup> *
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans’ Day	November 11 <sup>th</sup>
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25 <sup>th</sup> *

\*If the date falls on a Saturday, the Government holiday is the preceding Friday. If the date falls on a Sunday, the Government holiday is the following Monday.

- (e) *Free alongside ship (f.a.s.) (f.a.s. named port of shipment)* means a term of sale which means the seller fulfills its obligation to deliver when the goods have been placed alongside the vessel on the quay or in lighters at the named port of shipment. The supplier is responsible for all costs including but not limited to tollage, wharfage, and handling. The buyer bears all costs and risks of loss of or damage to the goods from that point.
- (f) *FGIS* means Federal Grain Inspection Service of the USDA which provides inspection, weighing, and related services on grains, pulses, oilseeds, and processed and graded commodities.

- (g) *F.o.b. vessel* means: for dry bulk cargoes, delivered free of expense to the Government loaded, unsowed and untrimmed, on board the designated conveyance at the USDA-approved port facility specified in the contract; and for liquid bulk cargoes, delivered free of expense to the Government on board the ocean vessel provided by USDA at the named port of shipment specified in the contract.
- (h) *Grain Acquisition Report and Invoice for Related Charges* means: Form KC-228 means a form that is issued by a warehouse operator to CCC in lieu of or in addition to a warehouse receipt.
- (i) *Intermodal plant* means delivered free of expense to the Government loaded on board the carrier-supplied conveyance at the origin point.
- (j) *Intermodal bridge* means delivered free of expense to the Government delivered in transportation conveyance obtained by the vendor to locations where steamship lines have established and published intermodal rates from a U.S. point to a U.S. port and a foreign destination.
- (k) *Instore* means within a USDA-approved warehouse.
- (l) *Lowest-landed cost* means the lowest combined cost of commodity and ocean freight to deliver a commodity to an overseas destination while adhering to cargo preference statutes and regulations.
- (m) *Packaging and containers* include any substance intended for use as a component of materials used in manufacturing, packing, transporting or holding food if such use is not intended to have a technical effect in such food.
- (n) *Plant* is defined as the prime or sub-contractor's facility where an agricultural commodity, or commodity-related item, is manufactured or processed from raw materials into a finished product, assembled from components, or packaged. An offeror's plant location, cited in an offer, must contain at least one of the industrial or manufacturing processes listed above. A local site which accommodates finished product while awaiting analytical test results, staging for shipment consolidation, or loading into shipping containers/trucks/railcars is considered a supplementary extension of the prime or sub-contractor's plant facility.
- (o) *WBSCM Purchase Order* or *WBSCM PO* means a contract that is accessible in the WBSCM System. *Contract* is as defined by FAR, i.e., a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. See FAR 2.101 for the full definition.
- (p) *World Trade Organization Government Procurement Agreement (WTO GPA) country* means any of the following countries: 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, North Macedonia, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or United Kingdom.

(End of clause)

#### **52.203-14 Display of Hotline Poster(s) (Nov 2021)**

*[Applicable for non-commercial item contracts performed within the United States if the contract value is expected to exceed \$6.0 million.]*

(a) *Definition.*

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

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

Poster (s):  
*USDA Hotline, “Report Violations of Laws and Regulations Relating to USDA Programs.”*

Obtain from:  
*USDA Office of Inspector General [www.usda.gov/oig/hotline.htm](http://www.usda.gov/oig/hotline.htm)  
Toll Free Number: (800) 424-9121*
- (c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.
- (d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed the threshold specified in Federal Acquisition Regulation 3.1004(b)(1) on the date of subcontract award, except when the subcontract—
- (1) Is for the acquisition of a commercial product or commercial service; or
  - (2) Is performed entirely outside the United States.

(End of clause)

**52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020)**  
*[Applicable to all solicitations and contracts of \$30,000 or more.]*

- (a) *Definitions*. As used in this clause:
- Executive* means officers, managing partners, or any other employees in management positions.
- First-tier subcontract* means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor’s supplier agreements with vendors, such as long-term arrangements for materials or supplies that would benefit multiple contracts and/or the costs of which are normally applied to a Contractor’s general and administrative expenses or indirect cost.
- Month of award* means the month in which a contract is signed by the Contracting Officer or the month in which a first-tier subcontract is signed by the Contractor.
- Total compensation* means the cash and noncash dollar value earned by the executive during the Contractor’s preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
- (1) *Salary and bonus*.

- (2) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board's Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.
  - (3) *Earnings for services under non-equity incentive plans*. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - (4) *Change in pension value*. This is the change in present value of defined benefit and actuarial pension plans.
  - (5) *Above-market earnings on deferred compensation which is not tax-qualified*.
  - (6) Other compensation, if the aggregate value of all such other compensation (*e.g.*, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- (b) Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.
  - (c) Nothing in this clause required the disclosure of classified information.
  - (d) (1) Executive compensation of the prime contractor. As a part of its annual registration requirement in the System for Award Management (SAM) (FAR provision 52.204-7), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if—
    - (i) In the Contractor's preceding fiscal year, the Contractor received—
      - (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and
      - (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and
    - (ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
  - (2) First-tier subcontract information. Unless otherwise directed by the contracting officer, or as provided in paragraph (g) of this clause, by the end of the month following the month of award of a first-tier subcontract valued at or above the threshold specified in FAR 4.1403(a) on the date of subcontract award, the Contractor shall report the following information at for that first-tier subcontract.. (The Contractor shall follow the instruction at <http://www.fsr.gov> to report the data.)
    - (i) Unique entity identifier for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.
    - (ii) Name of the subcontractor.
    - (iii) Amount of the subcontract award.
    - (iv) Date of the subcontract award.

- (v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.
  - (vi) Subcontract number (the subcontract number assigned by the Contractor).
  - (vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.
  - (viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.
  - (ix) The prime contract number, and order number if applicable.
  - (x) Awarding agency name and code.
  - (xi) Funding agency name and code.
  - (xii) Government contracting office code.
  - (xiii) Treasury account symbol (TAS) as reported in FPDS.
  - (xiv) The applicable North American Industry Classification System code (NAICS).
- (3) Executive compensation of the first-tier subcontractor. Unless otherwise directed by the Contracting Officer, by the end of the month following the month of award of a first-tier subcontract valued at or above the threshold specified in FAR 4.1403(a) on the date of subcontract award, and annually thereafter (calculated from the prime contract award date), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for that first-tier subcontractor for the first-tier subcontractor's preceding completed fiscal year at <https://www.fsr.gov>, if—
- (i) In the subcontractor's preceding fiscal year, the subcontractor received—
    - (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and
    - (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements and other forms of Federal financial assistance; and
  - (ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
- (e) The Contractor shall not split or break down first-tier subcontract awards to a value below the threshold specified in FAR 4.1403(a), on the date of subcontract award to avoid the reporting requirements in paragraph (d) of this clause.
  - (f) The Contractor is required to report information on a first-tier subcontract covered by paragraph (d) when the subcontract is awarded. Continued reporting on the same subcontract is not required unless one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after the first-tier subcontract expires.
  - (g) (1) If the Contractor in the previous tax year had gross income, from all sources, under \$300,000, the Contractor is exempt from the requirement to report subcontractor awards.  
 (2) If a subcontractor in the previous tax year had gross income from all sources under \$300,000, the Contractor does not need to report awards for that subcontractor.
  - (h) The FSR database at <http://www.fsr.gov> will be prepopulated with some information from SAM and the FPDS database. If FPDS information is incorrect, the contractor



should notify the contracting officer. If the SAM information is incorrect, the contractor is responsible for correcting this information.

(End of clause)

### **52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)**

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

*Backhaul* means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

*Covered foreign country* means The People's Republic of China.

*Covered telecommunications equipment or services* means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

*Critical technology* means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

*Interconnection arrangements* means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately

delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

*Reasonable inquiry* means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

*Roaming* means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

*Substantial or essential component* means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in [FAR 4.2104](#).

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) *Exceptions.* This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) *Reporting requirement.*

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of **commercial products or commercial services**.

(End of clause)

## **52.204-30 Federal Acquisition Supply Chain Security Act Orders – Prohibition (Dec 2023)**

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

*Covered article*, as defined in [41 U.S.C. 4713\(k\)](#), means—

(1) Information technology, as defined in [40 U.S.C. 11101](#), including cloud computing services of all types;

(2) Telecommunications equipment or telecommunications service, as those terms are defined in section 3 of the Communications Act of 1934 ([47 U.S.C. 153](#));

(3) The processing of information on a Federal or non-Federal information system, subject to the requirements of the Controlled Unclassified Information program (see [32 CFR part 2002](#)); or

(4) Hardware, systems, devices, software, or services that include embedded or incidental information technology.

*FASCSA order* means any of the following orders issued under the Federal Acquisition Supply Chain Security Act (FASCSA) requiring the removal of covered articles from executive agency information systems or the exclusion of one or more named sources or named covered articles from executive agency procurement actions, as described in [41 CFR 201–1.303\(d\)](#) and (e):

(1) The Secretary of Homeland Security may issue FASCSA orders applicable to civilian agencies, to the extent not covered by paragraph (2) or (3) of this definition. This type of FASCSA order may be referred to as a Department of Homeland Security (DHS) FASCSA order.

(2) The Secretary of Defense may issue FASCSA orders applicable to the Department of Defense (DoD) and national security systems other than sensitive compartmented information systems. This type of FASCSA order may be referred to as a DoD FASCSA order.

(3) The Director of National Intelligence (DNI) may issue FASCSA orders applicable to the intelligence community and sensitive compartmented information systems, to the extent not covered by paragraph (2) of this definition. This type of FASCSA order may be referred to as a DNI FASCSA order.

*Intelligence community*, as defined by [50 U.S.C. 3003\(4\)](#), means the following—

- (1) The Office of the Director of National Intelligence;
- (2) The Central Intelligence Agency;
- (3) The National Security Agency;
- (4) The Defense Intelligence Agency;
- (5) The National Geospatial-Intelligence Agency;
- (6) The National Reconnaissance Office;
- (7) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;
- (8) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy;
- (9) The Bureau of Intelligence and Research of the Department of State;
- (10) The Office of Intelligence and Analysis of the Department of the Treasury;
- (11) The Office of Intelligence and Analysis of the Department of Homeland Security; or
- (12) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

*National security system*, as defined in [44 U.S.C. 3552](#), means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

- (1) The function, operation, or use of which involves intelligence activities; involves cryptologic activities related to national security; involves command and control of military forces; involves equipment that is an integral part of a weapon or weapons system; or is critical to the direct fulfillment of military or intelligence missions, but does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications); or
- (2) Is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

*Reasonable inquiry* means an inquiry designed to uncover any information in the entity's possession about the identity of any covered articles, or any products or services produced or provided by a source. This applies when the covered article or the source is subject to an applicable FASCSA order. A reasonable inquiry excludes the need to include an internal or third-party audit.

*Sensitive compartmented information* means classified information concerning or derived from intelligence sources, methods, or analytical processes, which is required to be handled within formal access control systems established by the Director of National Intelligence.

*Sensitive compartmented information system* means a national security system authorized to process or store sensitive compartmented information.

*Source* means a non-Federal supplier, or potential supplier, of products or services, at any tier.

(b) *Prohibition.*

- (1) Unless an applicable waiver has been issued by the issuing official, Contractors shall not provide or use as part of the performance of the contract any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by an applicable FASCSA orders as follows:

- (i) For solicitations and contracts awarded by a Department of Defense contracting office, DoD FASCSA orders apply.

(ii) For all other solicitations and contracts DHS FASCSCA orders apply.

(2) The Contractor shall search for the phrase “FASCSCA order” in the System for Award Management (SAM) at <https://www.sam.gov> to locate applicable FASCSCA orders identified in paragraph (b)(1).

(3) The Government may identify in the solicitation additional FASCSCA orders that are not in SAM, which are effective and apply to the solicitation and resultant contract.

(4) A FASCSCA order issued after the date of solicitation applies to this contract only if added by an amendment to the solicitation or modification to the contract (see FAR [4.2304\(c\)](#)). However, see paragraph (c) of this clause.

(5)

(i) If the contractor wishes to ask for a waiver of the requirements of a new FASCSCA order being applied through modification, then the Contractor shall disclose the following:

(A) Name of the product or service provided to the Government;

(B) Name of the covered article or source subject to a FASCSCA order;

(C) If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied or supplies the covered article or the product or service to the Offeror;

(D) Brand;

(E) Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);

(F) Item description;

(G) Reason why the applicable covered article or the product or service is being provided or used;

(ii) *Executive agency review of disclosures.* The contracting officer will review disclosures provided in paragraph (b)(5)(i) to determine if any waiver is warranted.

A contracting officer may choose not to pursue a waiver for covered articles or sources otherwise covered by a FASCSCA order and to instead pursue other appropriate action.

(c) *Notice and reporting requirement.*

(1) During contract performance, the Contractor shall review *SAM.gov* at least once every three months, or as advised by the Contracting Officer, to check for covered articles subject to FASCSCA order(s), or for products or services produced by a source subject to FASCSCA order(s) not currently identified under paragraph (b) of this clause.

(2) If the Contractor identifies a new FASCSCA order(s) that could impact their supply chain, then the Contractor shall conduct a reasonable inquiry to identify whether a covered article or product or service produced or provided by a source subject to the FASCSCA order(s) was provided to the Government or used during contract performance.

(3)

(i) The Contractor shall submit a report to the contracting office as identified in paragraph (c)(3)(ii) of this clause, if the Contractor identifies, including through any notification by a subcontractor at any tier, that a covered article or product or service produced or provided by a source was provided to the Government or used during contract performance and is subject to a FASCSCA order(s) identified in paragraph (b) of this clause, or a new FASCSCA order identified in paragraph (c)(2) of this clause. For indefinite delivery contracts, the Contractor shall report to both the contracting office for the indefinite delivery contract and the contracting office for any affected order.

(ii) If a report is required to be submitted to a contracting office under (c)(3)(i) of this clause, the Contractor shall submit the report as follows:

(A) If a Department of Defense contracting office, the Contractor shall report to the website at <https://dibnet.dod.mil>.

(B) For all other contracting offices, the Contractor shall report to the Contracting Officer.

(4) The Contractor shall report the following information for each covered article or each product or service produced or provided by a source, where the covered article or source is subject to a FASCSA order, pursuant to paragraph (c)(3)(i) of this clause:

(i) Within 3 business days from the date of such identification or notification:

(A) Contract number;

(B) Order number(s), if applicable;

(C) Name of the product or service provided to the Government or used during performance of the contract;

(D) Name of the covered article or source subject to a FASCSA order;

(E) If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied the covered article or the product or service to the Contractor;

(F) Brand;

(G) Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);

(H) Item description; and

(I) Any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (c)(4)(i) of this clause:

(A) Any further available information about mitigation actions undertaken or recommended.

(B) In addition, the Contractor shall describe the efforts it undertook to prevent submission or use of the covered article or the product or service produced or provided by a source subject to an applicable FASCSA order, and any additional efforts that will be incorporated to prevent future submission or use of the covered article or the product or service produced or provided by a source that is subject to an applicable FASCSA order.

(d) *Removal.* For Federal Supply Schedules, Governmentwide acquisition contracts, multi-agency contracts or any other procurement instrument intended for use by multiple agencies, upon notification from the Contracting Officer, during the performance of the contract, the Contractor shall promptly make any necessary changes or modifications to remove any product or service produced or provided by a source that is subject to an applicable FASCSA order.

(e) *Subcontracts.*

(1) The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (c)(1) of this clause, in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products and commercial services.

(2) The Government may identify in the solicitation additional FASCSA orders that are not in SAM, which are effective and apply to the contract and any subcontracts and other contractual instruments under the contract. The Contractor or higher-tier subcontractor shall notify their subcontractors, and suppliers under other contractual instruments, that the FASCSA orders in the solicitation that are not in SAM apply to the contract and all subcontracts.

(End of clause)



## 52.209-1 Qualification Requirements (Feb 1995)

- (a) *Definition. Qualification requirement* as used in this clause, means a Government requirement for testing or other quality assurance demonstration that must be completed before award.
- (b) One or more qualification requirements apply to the supplies or services covered by this contract. For those supplies or services requiring qualification, whether the covered product or service is an end item under this contract or simply a component of an end item, the product, manufacturer, or source must have demonstrated that it meets the standards prescribed for qualification before award of this contract. The product, manufacturer, or source must be qualified at the time of award whether or not the name of the product, manufacturer, or source is actually included on a qualified products list, qualified manufacturers list, or qualified bidders list. Offerors should contact the agency activity designated below to obtain all requirements that they or their products or services, or their subcontractors or their products or services, must satisfy to become qualified and to arrange for an opportunity to demonstrate their abilities to meet the standards specified for qualification.

New Vendor/Small Business Coordinator  
USDA, AMS Commodity Procurement Program  
[NewVendor@usda.gov](mailto:NewVendor@usda.gov)

For information regarding how to become a qualified bidder, visit the [vendor qualification webpage](#), or contact the Contracting Officer.

- (c) Not applicable.
- (d) Even though a product or service subject to a qualification requirement is not itself an end item under this contract, the product, manufacturer, or source must nevertheless be qualified at the time of award of this contract. This is necessary whether the Contractor or a subcontractor will ultimately provide the product or service in question. If, after award, the Contracting Officer discovers that an applicable qualification requirement was not in fact met at the time of award, the Contracting Officer may either terminate this contract for default or allow performance to continue if adequate consideration is offered and the action is determined to be otherwise in the Government's best interests.
- (e) If an offeror, manufacturer, source, product or service has met the qualification requirement but is not yet on a qualified products list, qualified manufacturers list, or qualified bidders list, the offeror must submit evidence of qualification prior to award of this contract. Unless determined to be in the Government's interest, award of this contract shall not be delayed to permit an offeror to submit evidence of qualification.
- (f) Any change in location or ownership of the plant where a previously qualified product or service was manufactured or performed requires reevaluation of the qualification. Similarly, any change in location or ownership of a previously qualified manufacturer or source requires reevaluation of the qualification. The reevaluation must be accomplished before the date of award.

(End of clause)

## **52.209-9 Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018)**

- (a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the System for Award Management via <https://www.sam.gov>.
- (b) As required by section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111-212), all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available. FAPIIS consist of two segments—
  - (1) The non-public segment, into which Government officials and the Contractor post information, which can only be viewed by—
    - (i) Government personnel and authorized users performing business on behalf of the Government; or
    - (ii) The Contractor, when viewing data on itself; and
  - (2) The publicly-available segment, to which all data in the non-public segment of FAPIIS is automatically transferred after a waiting period of 14 calendar days, except for--
    - (i) Past performance reviews required by subpart 42.15;
    - (ii) Information that was entered prior to April 15, 2011; or
    - (iii) Information that is withdrawn during the 14-calendar-day waiting period by the Government official who posted it in accordance with paragraph (c)(1) of this clause.
- (c) The Contractor will receive notification when the Government posts new information to the Contractor's record.
  - (1) If the Contractor asserts in writing within 7 calendar days, to the Government official who posted the information, that some of the information posted to the non-public segment of FAPIIS is covered by a disclosure exemption under the Freedom of Information Act, the Government official who posted the information must within 7 calendar days remove the posting from FAPIIS and resolve the issue in accordance with agency Freedom of Information procedures, prior to reposting the releasable information. The contractor must cite 52.209-9 and request removal within 7 calendar days of the posting to FAPIIS.
  - (2) The Contractor will also have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, i.e., for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.
  - (3) As required by section 3010 of Pub. L. 111-212, all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available.
- (d) Public requests for system information posted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

(End of clause)

## **4A52.211-70 Delivery Instructions (June 2021)**

The Government shall issue to the contractor electronic purchase orders (contracts) in WBSCM. Notification of the issuance of documents in WBSCM will be sent via email. The contractor shall be responsible for ensuring that it is capable of receiving email communications during the course of the contract. The contractor shall ensure that it has an accurate email address on file with the Government. The Government will not be responsible for any failure of contractor receipt of



electronic information attributable to inoperable receiver equipment and/or software. The Government reserves the right, at its option, to issue Purchase Order by other means such as, but not limited to, facsimile transmission or regular mail.

(End of clause)

**4A52.211-71 Regulatory Requirements for Commodities and Packaging (June 2021)**

- (a) The commodity shall conform to the applicable provisions of the "Federal Food, Drug, and Cosmetic Act" (21 U.S.C. 301 et. seq.), as amended, and the relevant regulations, including applicable Food Safety Modernization Act regulations (FSMA), and sections in the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act). The contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations related to its performance under this contract.
- (b) All containers and packaging materials shall be constructed to meet the requirements of the Food and Drug Administration for safe contact with the packaged product. In addition, all containers and packaging materials shall be constructed to comply with the sum concentration levels of lead, cadmium, mercury, and hexavalent chromium addressed by the Coalition of Northeast Governors (CONEG) model legislation. The sum of the concentration levels of lead, cadmium, mercury, and/or hexavalent chromium present in any package or packaging component shall not exceed 100 parts per million. Concentration levels shall be determined using American Standard of Testing Materials test methods, as revised, or U.S. Environmental Protection Agency test methods for evaluating solid waste, S-W 846, as revised.

(End of clause)

**4A52.211-74 Period of Performance (June 2021)**

The period of performance of this contract is stipulated in the IFB.

(End of clause)

**4A52.211-90 Carrying Charges (June 2021)**

- (a) For f.o.b. vessel contracts only (excludes bulk oils and tallow), if the Government fails to take delivery by the end of the delivery period for reasons beyond the control of the contractor, the Government will pay carrying charges, on gross metric tons (net metric tons for wheat and sorghum), at the rate of 18 cents per metric ton per day beginning on the day following the end of the delivery period and continuing through the date the vessel presents the notice of readiness. For the purpose of carrying charges, a vessel must have passed all required inspections and be ready to receive grain in the compartments required for loading and a valid Notice of Readiness (NOR) must be presented during normal business hours of 0900 to 1600 local time, Monday through Friday and on Saturday between 0900 to 1200 noon (provided it is not a federal holiday, or a holiday listed on the elevator tariff). If the NOR is filed after business hours, the NOR will be considered presented on the next business day.
- (b) For f.o.b. vessel contracts for bulk oil, and tallow, if the Government fails to take delivery by the end of the delivery period for reasons beyond the control of the contractor, the Government will pay to the contractor a premium based on the actual (noncumulative)

number of days by which the delivery period is exceeded through the date the vessel presents the notice of readiness as follows:

- 1) If exceeded by 1, 2, 3, or 4 days, ½ of 1 percent of the f.o.b. price;
  - 2) If exceeded by 5 or 6 days, 1 percent of the f.o.b. price;
  - 3) If exceeded by 7 or 8 days, 1 ½ percent of the f.o.b. price;
  - 4) If exceeded by more than 8 days, an additional premium of ¼ of 1 percent of the f.o.b. price for each day beyond 8 days.
- (c) If the f.o.b. vessel contract contains multiple prices, the premium shall be calculated on the weighted average of the contract prices.

(End of clause)

#### **4A52.211-91 Compensation for Delays in Delivery (June 2021)**

- (a) If a Contractor determines that it will not be able to deliver the commodity by the Not-Later-Than (NLT) delivery date, the Contractor shall notify the Contracting Officer immediately. If the reason for not meeting the NLT delivery date is beyond the control or negligence of the Contractor, as identified in the default clause, the Contractor is required to submit a request for an extension of the delivery date. Failure to submit a request for an extension will result in liquidated damages being assessed. See clause 52.211-11, of the Master Solicitation. No extension will be granted due to weekends or Federal holidays.
- (b) If a Contractor delivered a product and the product is rejected, the Contractor shall deliver an acceptable replacement product prior to the end of the NLT delivery date and liquidated damages will not be assessed. However, if the replacement product will be delivered beyond the NLT delivery date, liquidated damages will be assessed.
- (c) When deliveries are made by contract carrier or vendor's own vehicle, the date shown on the signed commercial bill of lading will be considered the date of delivery.

(End of clause)

#### **52.211-11 Liquidated Damages- Supplies, Services, or Research and Development (Sep 2000)**

NOTE: Liquidated damages are based upon delivery periods for f.o.b. destination contracts and f.a.s. vessel contracts for bags only but based on shipping periods for all others.

- (a) If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract, the Contractor shall, in place of actual damages, pay to the Government liquidated damages of \$ (see table below) per calendar day of delay, not to exceed 45 days of delay.

Commodity Liquidated Damages	USDA Commodity Requirement	Rate	Per Net Weight
All Purpose Wheat Flour/Bread Flour	(WFBF)		
Bagged Grain	(KCBG)		
Bulgur Wheat/Soy - Fortified Bulgur	(BWSF)		
Canned Salmon	(CPS)		
Corn Oil	(CO)		
Cornmeal	(CM)		
Corn-Soy Blend Plus	(CSBP)		
Dehydrated Potato Products	(DPP)		
Dried Dairy Ingredients	(DDI)		
Dry Edible Beans	(DEB)		
Fortified Poultry-Based Spread	(FPBS)		
High Energy Biscuits	(HEB)		
Milled Rice/Fortified Milled Rice (bagged)	(MR)		
Peas & Lentils	(PL)		
Ready-To-Use Supplementary Food	(RUSF)		
Ready-To-Use Therapeutic Food	(RUTF)	\$ 0.11	Cwt/day
Soy-Fortified Cornmeal	(SFCM)		
Sunflower Seed Oil	(SFSO)		
Super Cereal Plus	(SCP)		
Value Added Soy Products	(VASP)		
Vegetable Oil	(VO)		
Wheat Soy Blend	(WSB)		
Nonfortified Nonfat Dry Milk-Export	(DME)	(.45)	Cwt/day
Bags	(KCP BAGS)	\$25.00	1,000 bags/day

- (b) If the Government terminates this contract in whole or in part under the Default—Fixed-Price Supply and Service clause, the Contractor is liable for liquidated damages accruing until the Government reasonably obtains shipment/ delivery or performance of similar supplies or services. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.
- (c) The Contractor will not be charged with liquidated damages when the delay in delivery or performance is beyond the control and without the fault or negligence of the Contractor as defined in the Default—Fixed- Price Supply and Service clause in this contract.

(End of clause)

#### 52.211-16 Variation in Quantity (Apr 1984)

- (a) A variation in quantity of any item called for by this contract will not be accepted unless the variation has been caused by conditions of loading, shipping or packing, or allowances in manufacturing process, and then only to the extent, if any specified in paragraph (b) of this clause.

- (b) The permissible variation shall be limited to:
  - Zero (0) percent increase
  - Zero (0) percent decrease.

(End of clause)

**4A52.214-90 Place of Performance (June 2021)**

- (a) For f.o.b. vessel bulk grain shipments place of performance shall:
  - (i) Be a federally or state licensed warehouse and be on CCC's List of Authorized Warehouses or have a put through agreement or other means to assure timely delivery through an export elevator on CCC's List of Approved Warehouses, with the ability to load ocean-going vessels and barges from a spout that is physically attached to the storage location.
  - (ii) Be a federally or state licensed warehouse and be on CCC's List of Authorized Warehouses or have a put through agreement or other means to assure timely delivery through a dockside facility or a floating Mid- stream facility for exporting milled rice or soybean meal.
  - (iii) Have the ability to issue or cause to be issued export weight and grade certificates covering the exportation of the product at the location of the elevator. The certificates shall be acceptable to the FGIS.
  - (iv) Have approved loadout rates for tankers and tween-deckers.
  - (v) If loading is out of the Great Lakes, trans-shipment will be allowed providing the origin of the loading is out of the Great Lakes. The original Laker vessel shall be loaded at the federally or state licensed warehouse and trans-shipped to a larger ocean-going vessel most commonly in the St. Lawrence Seaway.
- (b) For Instore bids, be on CCC's List of Approved Warehouse or be recognized members of the grain industry and be otherwise able to furnish negotiable warehouse receipts or certified KC-228's issued from the approved warehouse named in the bid.

(End of clause)

**4A52.214-91 Order of Precedence (June 2021)**

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

- (a) The Invitation for Bids
- (b) Solicitation provisions
- (c) Contract clauses
- (d) USDA Commodity Requirements
- (e) Other documents, exhibits, and attachments

(End of clause)

**4A52.219-81 The HUBZone Program (Aug 2022)**

- (a) The Government will award contracts to eligible HUBZone small business concerns in accordance with FAR Subpart 19.13, except for price evaluation preference mandated by the provisions of 15 U.S.C. 657a.
- (b) For agricultural commodities procured on the basis of full and open competition for international food aid programs, the price offered by a qualified HUBZone small

business concern shall be deemed as being lower than the price offered by another offeror (other than another small business concern), if the price offered by the qualified HUBZone small business concern is not more than 5 percent higher than the price offered by the otherwise lowest, responsive, and responsible offeror.

(1) The price evaluation preference shall be—

- (i) 5 percent, for the portion of a contract to be awarded that is not greater than 20 percent of the total volume being procured for each commodity in a single invitation; and
- (ii) 0 percent for the portion of a contract to be awarded that is greater than 20 percent of the total volume being procured for each commodity in a single invitation.

(End of clause)

#### **4A52.219-90 The 8(a) Program (June 2021)**

For the purposes of contracts made under the 8(a) Program, FAR 19.8, reference to “Contractor,” in all USDA contract or purchase order documents, means the 8(a) firm. In accordance with the Partnership Agreement as authorized under FAR 19.800(e), the Small Business Administration (SBA) has delegated responsibility to USDA for the administration of contracts or purchase orders awarded to 8(a) firms with complete authority to take any action on behalf of the Government under the terms and conditions of the contract. All 8(a) contractors must be on the Qualified Vendors List.

(End of clause)

#### **52.219-3 Notice of HUBZone Set-Aside or Sole Source Award (Oct 2022)**

(a) *Definitions.* HUBZone small business concern, as used in this clause, means a small business concern, certified by the Small Business Administration (SBA), that appears on the List of Qualified HUBZone Small Business Concerns maintained by the SBA ([13 CFR 126.103](#)).

(b) *Applicability.* This clause applies only to-

- (1) Contracts that have been set aside or awarded on a sole-source basis to, HUBZone small business concerns;
- (2) Part or parts of a multiple-award contract that have been set aside for HUBZone small business concerns;
- (3) Orders set aside for HUBZone small business concerns under multiple-award contracts as described in [8.405-5](#) and [16.505\(b\)\(2\)\(i\)\(F\)](#); and
- (4) Orders issued directly to HUBZone small business concerns under multiple-award contracts as described in [19.504\(c\)\(1\)\(ii\)](#).

(c) *General.* (1) Offers are solicited only from HUBZone small business concerns. Offers received from concerns that are not HUBZone small business concerns will not be considered.

(2) Any award resulting from this solicitation will be made to a HUBZone small business concern.

(d) *Joint venture.* A joint venture may be considered a HUBZone concern if—

- (1) At least one party to the joint venture is a HUBZone small business concern and complies with [13 CFR 126.616\(c\)](#); and

- (2) Each party to the joint venture qualifies as small under the size standard for the solicitation, or the protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under the SBA mentor-protégé program.
- (e) A HUBZone joint venture agrees that, in the performance of the contract, at least 40 percent of the aggregate work performed by the joint venture shall be completed by the HUBZone small business parties to the joint venture. Work performed by the HUBZone small business party or parties to the joint venture must be more than administrative functions.

(End of clause)

#### **52.219-14 Limitations on Subcontracting (Oct 2022)**

- (a) This clause does not apply to the unrestricted portion of a partial set-aside.
- (b) *Definition. Similarly situated entity*, as used in this clause, means a first-tier subcontractor, including an independent contractor, that—
- (1) Has the same small business program status as that which qualified the prime contractor for the award (*e.g.*, for a small business set-aside contract, any small business concern, without regard to its socioeconomic status); and
  - (2) Is considered small for the size standard under the North American Industry Classification System (NAICS) code the prime contractor assigned to the subcontract.
- (c) *Applicability*. This clause applies only to—
- (1) Contracts that have been set aside for any of the small business concerns identified in 19.000(a)(3);
  - (2) Part or parts of a multiple-award contract that have been set aside for any of the small business concerns identified in 19.000(a)(3);
  - (3) Contracts that have been awarded on a sole-source basis in accordance with subparts 19.8, 19.13, 19.14, and 19.15;
  - (4) Orders expected to exceed the simplified acquisition threshold and that are—
    - (i) Set aside for small business concerns under multiple-award contracts, as described in 8.405-5 and 16.505(b)(2)(i) (F); or
    - (ii) Issued directly to small business concerns under multiple-award contracts as described in 19.504(c)(1)(ii);
  - (5) Orders, regardless of dollar value, that are—
    - (i) Set aside in accordance with subparts 19.8, 19.13, 19.14, or 19.15 under multiple-award contracts, as described in 8.405-5 and 16.505(b)(2)(i)(F); or
    - (ii) Issued directly to concerns that qualify for the programs described in subparts 19.8, 19.13, 19.14, or 19.15 under multiple-award contracts, as described in 19.504(c)(1)(ii); and
  - (6) Contracts using the HUBZone price evaluation preference to award to a HUBZone small business concern unless the concern waived the evaluation preference.
- (d) *Independent contractors*. An independent contractor shall be considered a subcontractor.
- (e) *Limitations on subcontracting*. By submission of an offer and execution of a contract, the Contractor agrees that in performance of a contract assigned a North American Industry Classification System (NAICS) code for—

(1) Services (except construction), it will not pay more than 50 percent of the amount paid by the Government for contract performance to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the prime contractor's 50 percent subcontract amount that cannot be exceeded. When a contract includes both services and supplies, the 50 percent limitation shall apply only to the service portion of the contract;

(2) Supplies (other than procurement from a nonmanufacturer of such supplies), it will not pay more than 50 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the prime contractor's 50 percent subcontract amount that cannot be exceeded. When a contract includes both supplies and services, the 50 percent limitation shall apply only to the supply portion of the contract;

(3) General construction, it will not pay more than 85 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the prime contractor's 85 percent subcontract amount that cannot be exceeded; or

(4) Construction by special trade contractors, it will not pay more than 75 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the prime contractor's 75 percent subcontract amount that cannot be exceeded.

(f) The Contractor shall comply with the limitations on subcontracting as follows:

(1) For contracts, in accordance with paragraphs (c)(1), (2), (3) and (6) of this clause—

[Contracting Officer check as appropriate.]

By the end of the base term of the contract and then by the end of each subsequent option period; or

By the end of the performance period for each order issued under the contract.

(2) For orders, in accordance with paragraphs (c)(4) and (5) of this clause, by the end of the performance period for the order.

(g) A joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (e) of this clause will be performed by the aggregate of the joint venture participants.

(1) In a joint venture comprised of a small business protégé and its mentor approved by the Small Business Administration, the small business protégé shall perform at least 40 percent of the work performed by the joint venture. Work performed by the small business protégé in the joint venture must be more than administrative functions.

(2) In an 8(a) joint venture, the 8(a) participant(s) shall perform at least 40 percent of the work performed by the joint venture. Work performed by the 8(a) participants in the joint venture must be more than administrative functions.

(End of clause)

## 52.219-27 Notice of Set-Aside for, or Sole-Source Award to, Service-Disabled Veteran-Owned Small Business (SDVOSB) Concerns Eligible Under the SDVOSB Program (Feb 2024)

### (a) Definition.

*Service-disabled veteran-owned small business (SDVOSB) concern* means a small business concern—

#### (1)

(i) Not less than 51 percent of which is owned and controlled by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran; or

(2) A small business concern eligible under the SDVOSB Program in accordance with 13 CFR part 128 (see subpart [19.14](#)).

(3) *Service-disabled veteran*, as used in this definition, means a veteran as defined in [38 U.S.C. 101\(2\)](#), with a disability that is service-connected, as defined in [38 U.S.C. 101\(16\)](#) and who is registered in the Beneficiary Identification and Records Locator Subsystem, or successor system that is maintained by the Department of Veterans Affairs' Veterans Benefits Administration, as a service-disabled veteran.

*Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program* means an SDVOSB concern that—

(1) Effective January 1, 2024, is designated in the System for Award Management (SAM) as certified by the Small Business Administration (SBA) in accordance with 13 CFR 128.300; or

(2) Has represented that it is an SDVOSB concern in SAM and submitted a complete application for certification to SBA on or before December 31, 2023.

*Service-disabled veteran-owned small business (SDVOSB) Program* means a program that authorizes contracting officers to limit competition, including award on a sole-source basis, to SDVOSB concerns eligible under the SDVOSB Program.

(b) *Applicability*. This clause applies only to—

(1) Contracts that have been set aside for, or awarded on a sole-source basis to, SDVOSB concerns eligible under the SDVOSB Program;

(2) Part or parts of a multiple-award contract that have been set aside for SDVOSB concerns eligible under the SDVOSB Program;

(3) Orders set aside for SDVOSB concerns eligible under the SDVOSB Program, under multiple-award contracts as described in [8.405-5](#) and [16.505\(b\)\(2\)\(i\)\(F\)](#); and

(4) Orders issued directly to SDVOSB concerns eligible under the SDVOSB Program, under multiple-award contracts as described in [19.504\(c\)\(1\)\(ii\)](#).

(c) General.

(1) Effective January 1, 2024, for SDVOSB set-aside or sole-source procurements, offers are solicited only from, and awards resulting from this solicitation will be made only to, concerns—

(i) Designated in SAM as an SDVOSB concern certified by SBA; or

(ii) That have represented their status as an SDVOSB in SAM and submitted a complete application for certification to SBA on or before December 31, 2023.



(2) Offers received from concerns that do not meet the criteria of paragraph (c)(1)(i) or (ii) of this clause, shall not be considered.

(d) A joint venture may be considered an SDVOSB concern if the managing partner of the joint venture complies with the criteria defined in paragraph (a) of this clause and 13 CFR 128.402.

(e) In a joint venture that complies with paragraph (d) of this clause, the SDVOSB party or parties to the joint venture shall perform at least 40 percent of the work performed by the joint venture. Work performed by the SDVOSB party or parties to the joint venture must be more than administrative functions.

(End of clause)

**52.219-30 Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program. (Oct 2022)**

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

*Women-owned small business (WOSB) concern eligible under the WOSB Program* (in accordance with [13 CFR part 127](#)), as used in this clause, means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with [13 CFR 127.300](#) as a WOSB. A certified EDWOSB is automatically eligible as a certified WOSB.

*WOSB Program Repository* means a secure, Web-based application that collects, stores, and disseminates documents to the contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

(b) *Applicability.* This clause applies only to-

- (1) Contracts that have been set aside for, or awarded on a sole-source basis to, WOSB concerns eligible under the WOSB Program;
- (2) Part or parts of a multiple-award contract that have been set aside for WOSB concerns eligible under the WOSB Program;
- (3) Orders set aside for WOSB concerns eligible under the WOSB Program, under multiple-award contracts as described in [8.405-5](#) and [16.505\(b\)\(2\)\(i\)\(F\)](#); and
- (4) Orders issued directly to WOSB concerns eligible under the WOSB Program under multiple-award contracts as described in [19.504\(c\)\(1\)\(ii\)](#).

(c) *General.* (1) For WOSB set-aside procurements, offers are solicited only from certified WOSB concerns eligible under the WOSB Program or WOSB concerns with a pending application for certification status in the Dynamic Small Business Search (DSBS).

(2) For WOSB sole-source awards, offers are solicited only from certified WOSB concerns.

(3) Offers received from other concerns shall not be considered.

(4) Any award resulting from this solicitation will be made to a certified WOSB concern eligible under the WOSB Program.

(d) *Joint venture.* A joint venture may be considered a WOSB concern eligible under the WOSB Program if—

- (1) At least one party to the joint venture complies with the criteria defined in paragraph (a) and (c)(3) of this clause, and [13 CFR 127.506\(c\)](#); and
- (2) Each party to the joint venture qualifies as small under the size standard for the solicitation, or the protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé

agreement under the SBA mentor-protégé program.

(e) In a joint venture that complies with paragraph (d) of this clause, the WOSB party or parties to the joint venture shall perform at least 40 percent of the work performed by the joint venture. Work performed by the WOSB party or parties to the joint venture must be more than administrative functions.

(End of clause)

**52.222-35 Equal Opportunity for Veterans (Jun 2020)**

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

“Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran” have the meanings given at FAR 22.1301.

(b) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) *Subcontracts.* The Contractor shall insert the terms of this clause in subcontracts valued at or above the threshold specified in FAR 22.1303(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary of Labor.. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate of identify properly the parties and their undertakings.

(End of clause)

**52.222-36 – Equal Opportunity for Workers With Disabilities. (Jun 2020)**

(a) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60.741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess the threshold specified in Federal Acquisition Regulation (FAR) 22.1408(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

(End of clause)

**4A52.225-70 U.S. Origin Product (June 2021)**

(a) The products of agricultural commodities acquired under this contract must be a product of the United States and shall be considered to be such a product if it is grown, processed, and otherwise prepared for sale or distribution exclusively in the United States (See AGAR

470.103). Ingredients from nondomestic sources will be allowed to be utilized as a United States product if such ingredients are not otherwise: (1) produced in the United States; and (2) commercially available in the United States at fair and reasonable prices from domestic sources. See 4A52.225-71 U.S. Origin of Agricultural Commodities – Waiver for Certain Ingredients below.

- (b) If the Contractor processes or handles products originating from sources other than the United States, the Contractor must have an acceptable identification and segregation plan for those products to ensure they are not used in commodities purchased under this Master Solicitation—except for commingled products (see paragraph (c)). This plan must be made available to an AMS representative and the Contracting Officer or agent thereof upon request. The Contractor must ensure that the Contractor and any subcontractor(s) maintain records such as invoices, or production and inventory records evidencing product origin, and make such records available for review by the Government in accordance with FAR 52.214-26.
- (c) For commodities that the Department has determined to be generally commingled, a commingled product shall be considered to be a product of the United States if the offeror can establish that the offeror has in inventory at the time the contract for the commodity or product is awarded to the offeror, or obtains during the contract performance period specified in the solicitation, or a combination thereof, a sufficient quantity of the commodity or product that was produced in the United States to fulfill the contract being awarded, and all unfulfilled contracts that the offeror entered into to provide such commingled product to the United States. However, if the commodity can be readily stored on an identity preserved basis with respect to its country of origin, the Government may require that the commodity acquired under this contract be of 100 percent U.S. origin.
- (d) The Contractor agrees to include this domestic origin certification clause in all subcontracts for products used in fulfilling contracts awarded under this Master Solicitation. The burden of proof of compliance is on the Contractor.
- (e) FAR clause 52.225-5, Trade Agreements incorporated by reference in FAR clause 52.252-2 applies only to packaging and container components. Agricultural commodities and their products are exempt from 52.225-5.
- (f) The Government has determined that the following commodities shall be 100 percent U.S. origin and provided on an identity preserved basis:
  - Dry beans, peas and lentils.

(End of clause)

#### **4A52.225-71 U.S. Origin of Agricultural Commodities - Waiver for Certain Ingredients (June 2021)**

The requirement for a commodity and/or a component ingredient to be entirely produced and/or processed in the United States (see Definitions, “Agricultural Commodity”) may be waived due to non- availability at fair and reasonable prices.

- (a) Waived ingredients may be subject to the standard definition of the Buy American Act, which uses as two- part test to define a domestic end product:
  - (1)The article must be manufactured in the United States; and
  - (2)The cost of domestic components must exceed 50 percent of the cost of all the components.
- (i) The following ingredients are subject to the standard definition of the Buy American Act:

[Reserved]

- (b) Waived ingredients may be acquired as a foreign end product without regard to the restrictions of the Buy American Act. The following ingredients have been determined by the Head of Contracting Activity Designee as not available in the U.S. at fair and reasonable prices and are waived from all Buy American Act and domestic origin restrictions:

Waived Ingredients	
Nutrient	Fortificant Form
no nutrient listed	Butylated hydroxy anisole
no nutrient listed	Butylated hydroxy toluene
Biotin	Biotin 1%
Iodine	Potassium Iodide
Iron	Iron-Sodium EDTA
Pantothenic acid	Calcium D-Pantothenate
Selenium	Sodium Selenite (1.5%)
Vitamin A	Retinol Palmitate
Vitamin B1	Thiamine mononitrate
Vitamin B12	Vitamin B12 0.1% or 1% Spray Dried
Vitamin B2	Vitamin B2 fine powder
Vitamin B2	Riboflavin
Vitamin B3	(Niacin) Nicotinic Acid
Vitamin B6	Pyridoxine hydrochloride
Vitamin B9	Folic Acid
Vitamin C	Ascorbic acid
Vitamin K1	Dry Vitamin K1 5% Water Dispersible/Phylloquinon 5%

(End of clause)

**4A52.232-70 Contractor Expenses (June 2021)**

Unless stipulated otherwise in the contract, all expenses incurred including but not limited to testing, analysis, fumigation, and certification requirements shall be the responsibility of the contractor.

(End of clause)

**4A52.232-90 Electronic Invoicing (June 2021)**

Electronic invoicing is authorized and required for this contract.

- (a) *Contractor's Advance Shipment Notice (ASN) as invoice.* The ASN entered in WBSCM will serve as the contractor's invoice, i.e., request for payment. Separate entry of an invoice using WBSCM's Supplier Self Service is no longer required.
- (b) *Authorization to pay.* The Government will not review an invoice for payment until all required supporting documentation has been received. In addition to the items in paragraph (2) above, all invoice payments must be supported by a receiving report (proof of delivery). A recipient-entered WBSCM goods receipt will serve as the receiving report. The recipient

(receiving official) should enter the goods receipt into WBSCM no later than the 2<sup>nd</sup> working day after delivery.

(c) *Payment due dates.* The due date for making an invoice payment is as follows—

<b>Upon receipt of a proper invoice for:</b>	<b>Payment must be made as close as possible to but not later than:</b>
<i>Perishable agricultural commodities.</i> As defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C 499a(4)). (This includes frozen fruit and vegetable products).	10 <sup>th</sup> day after receipt of a proper invoice, unless another day is specified in the contract.
Dairy products. As defined in section 111(e) of the Dairy Production Stabilization Act of 1983 ( <a href="#">7 U.S.C. 4502(e)</a> ), edible fats or oils, and food products prepared from edible fats or oils. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products fall within this classification. Nothing in the Act limits this classification to refrigerated products. If questions arise regarding the proper classification of a specific product, the contracting officer must follow prevailing industry practices in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the contractor making the representation.	10 <sup>th</sup> day after a proper invoice has been received
<i>All other commodities</i>	30 <sup>th</sup> day after receipt of a proper invoice.

(d) *Supporting documents.* When applicable, contractor shall upload additional supporting documents when submitting their shipment receipt or ASN in WBSCM as follows—

- (1) Goods Receipt, (including attachments, as applicable; see paragraphs (a) through (g) regarding other proof of delivery documents for various delivery bases);
- (2) Required inspection certificates (see paragraphs (a) through (g) for the type of inspection evidence required); and
- (3) Other information required for the applicable delivery basis (outlined in paragraphs (a) through (e) below):

(a) For f.a.s. vessel, intermodal plant, intermodal bridge, shipments with acceptance occurring at final contracted destination:

The contractor shall submit the following proof of delivery and/or inspection documents:

- (i) Commercial Bill of Lading; and
- (ii) Inspection document such as:
  - (1) Government-issued inspection certificate; or
  - (2) FGIS Official (original) inspection certificates “with handwritten blue ink signature and lot number”; or
  - (b) Certificate of Analysis (COA), original COA including company letterhead with supplier/lab full address, purchase order number, lot number, production date, BUBD, test results with reference to specification min/max, blue ink handwritten signature, company logo in color and company seal/stamp. If product delivered falls within the quality discount table as outlined in the commodity specifications, those factors must be identified by an asterisk on the copies of the COA; and

- (iii) Statement from the contractor certifying fumigation of product, if required; and
- (iv) Proof of delivery as stipulated in the following table:

Delivery Basis	Proof of Delivery
Intermodal plant	A bill of lading, or similar document, showing count and over, short and damage, including documentation of carrier acceptance.
Intermodal Bridge	A bill of lading, consignee receipt, signed by the freight forwarder/ unloading stevedore, as proof of delivery at the intermodal bridge point, or similar document signed by the unloader and receiver showing count and over, short and damage.
F.A.S. Vessel	A WBSCM Good Receipt entered by the freight forwarder/unloading stevedore, or proof of delivery document signed by the unloader or receiver at the FAS position showing count and over, short and damage (e.g., Dock Receipt, Consignee Receipt).

- (b) For f.o.b. vessel shipments-dry bulk cargoes.  
The contractor shall submit the following proof of delivery and/or inspection documents, as applicable:
  - (1) Copy of signed and dated on board Ocean Bill of Lading or copy of Mate’s Receipt (vessel under and over fills in excess of 5% to be settled in cash at market value determined by the Government on the day following the Bill of Lading date);
  - (2) FGIS Official (original) Export Weight;
  - (3) FGIS Official (original) Clear White Grade Inspection Certificates;
  - (4) FGIS Protein Certificate, if protein analysis is required;
  - (5) FGIS Aflatoxin Certificate, if aflatoxin testing is required;
  - (6) FGIS Vomitoxin Certificate, if Vomitoxin testing is required;
  - (7) FGIS or commercial private laboratory certificate for falling number, if falling number analysis is required; and
  - (8) Fumigation certificate issued by the fumigator and a signed statement on FGIS letterhead attesting that the fumigation was witnessed by a FGIS representative, if required.
- (c) For f.o.b. vessel shipments - bulk oils and tallow, the contractor shall submit the following proof of delivery and/or inspection documents.
  - (1) Copy of signed and dated on board Ocean Bill of Lading or Mate's Receipt;
  - (2) Chemical, analysis certificate issued by a National Oilseed Processors Association or American Fats and Oils Association, Inc. – approved commercial chemist on the chemist's letterhead, which includes
    - (a) The following certification:  
*“The undersigned hereby certifies that the chemical analysis certificate was*

*issued as a result of the analysis of samples taken by an independent surveyor, and that such chemical analysis was performed in accordance with methods prescribed in the Trading Rules of the National Oilseed Processors Association or American Fats and Oils Association, Inc.”, as applicable;*

- (b) A statement that the bulkoil/tallow met the analytical requirements of the specifications as provided in the contract;
- (3) A sampling certificate which includes a statement that the samples were drawn in accordance with American Oil Chemists Society Method C 1-47;
- (4) Survey report of the independent surveyor which must include the weight of the bulk oil/tallow delivered and a certification that the ship’s tanks were examined and found suitable for receipt and carriage of the bulk oil/tallow.
- (d) For f.a.s. vessel – bag shipments with acceptance occurring at final contracted destination. The contractor shall submit the following proof of delivery and/or inspection documents:
  - (1) Commercial Bill of Lading; and
  - (2) Proof of delivery as evidenced by a dock receipt, consignee receipt signed by the freight forwarder/ unloading stevedore, as proof of delivery at the f.a.s. position or similar documents signed by the unloader and receiver showing count and over, short and damage.
- (e) For Instore delivery  
The contractor shall submit the following proof of delivery and/or inspection documents:
  - (1) Description, quantity, unit of measure, unit price and extended price of the items delivered;
  - (2) Form KC-228 or negotiable warehouse receipts.

(End of clause)

#### **52.232-23 Assignment of Claims (May 2014)**

USDA forms CCC-251 (Notice of Assignment) and CCC-252 (Instrument of Assignment) may be obtained at: <https://www.ams.usda.gov/resources/ccc-251-ccc-252-notice-assignment-form> or the contractor may use its own forms provided the forms are essentially consistent with CCC-251 and CCC-252 in content.

(End of clause)

#### **52.232-39 Unenforceability of Unauthorized Obligations (Jun 2013)**

- (a) Except as stated in paragraph (b) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:
  - (1) Any such clause is unenforceable against the Government.
  - (2) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an “I agree” click box or other comparable mechanism (e.g., “click-wrap”

or “browse- wrap” agreements), execution does not bind the Government or any Government authorized end user to such clause.

(3) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(b) Paragraph (a) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(End of clause)

#### **52.246-2 Inspection of Supplies - Fixed-Price (Aug 1996)**

Pursuant to FAR 46.401(b) & (c), the Government reserves the right to perform quality assurance at source; source includes, but are not limited to, contractor’s manufacturing facility, packaging facility, warehouse, in-house laboratory, subcontractor’s facilities, etc.

(End of clause)

#### **52.246-11 Higher-Level Contract Quality Requirement (Dec 2014)**

(a) The Contractor shall comply with the higher-level quality standard(s) listed below.

4.0, Quality Management System

5.1, Management Commitment

5.3, Quality Policy

5.5, Responsibility, Authority, Communication

5.6, Management Review (Limited to 5.6.1 and 5.6.2)

6, Resource Management

7.1, Planning of Product Realization

7.2, Customer Related Processes

7.4, Purchasing Process

7.5, Production and Service Provision

7.6, Control, Monitoring and Measuring Devices

8.0, Measurement, Analysis and Improvement

AMS uses the Federal Grain and Inspection Service (FGIS) Quality Assurance Program for monitoring contractor compliance with standards. Information concerning this program can be found at the website: <https://www.ams.usda.gov/services/fgis/osp/quality-assurance>

(b) The Contractor shall include applicable requirements of the higher-level quality standard(s) listed in paragraph (a) of this clause and the requirement to flow down such standards, as applicable, to lower-tier subcontracts, in—

(1) Any subcontract for critical and complex items (see 46.203(b) and (c)); or

(2) When the technical requirements of a subcontract require—

i. Control of such things as design, work operations, in-process control, testing, and inspection; or

ii. Attention to such factors as organization, planning, work instructions, documentation control, and advanced metrology.

(End of clause)

#### **52.246-16 Responsibility for Supplies (Apr 1984)**



- (a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance, regardless of when or where the Government takes physical possession, unless the contract specifically provides for earlier passage of title.
- (b) Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the Contractor until, and shall pass to the Government upon-
  - (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
  - (2) Acceptance by the Government or delivery of the supplies to the Government at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.
- (c) Paragraph (b) of this clause shall not apply to supplies that so fail to conform to contract requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Contractor until cure or acceptance. After cure or acceptance, paragraph (b) of this clause shall apply.
- (d) Under paragraph (b) of this clause, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.

(End of clause)

#### **4A52.246-90 Risk of Loss (June 2021)**

Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the Contractor until, and shall pass to the Government upon-

- (i) Delivery of the supplies when the goods have been placed alongside the vessel on the quay or in lighters at the named port of shipment, if transportation is f.a.s. (named port of shipment). If the named port of shipment has warehouse/berth/terminal/transload facilities available and contractor's shipment(s) is unloaded into such a facility as named by the ocean carrier rather than placed alongside vessel on the quay or in lighters, then risk of loss to supplies shall pass from the contractor at the point where the supplies come to rest in the warehouse/berth/terminal/ transload facility designated by the ocean carrier;
- (ii) Delivery of the supplies on board the ocean vessel at the named port of shipment specified in the contract, if transportation is f.o.b. vessel;
- (iii) Delivery of the supplies when placed on board the conveyance at named point of origin, if transportation is Intermodal Plant;
- (iv) Delivery of the supplies to the carrier on rail cars, trucks, or carrier- supplied conveyance at the named bridge point, if transportation is Intermodal Bridge;
- (v) Delivery of the supplies to the carrier on rail cars, trucks, or carrier- supplied conveyance at the bridge-port point, if transportation is Intermodal Bridge-Port.
- (vi) Receipt by the Government of a warehouse receipt or a certified Form KC-228 covering supplies being delivered, if delivered Instore.
- (a) Paragraph (a) of this clause shall not apply to supplies that so fail to conform to contract requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Contractor until cure or acceptance. After cure or acceptance, paragraph (a) of this clause shall apply.
- (b) Under paragraph (a) of this clause the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.

(End of clause)

#### **4A52.246-91 Acceptance (Dec 2022)**

Formal acceptance shall occur when the Government approves the invoice for payment. The Government reserves the right to reject, in total or in part, manufacturers lots, sub-lots, production dates or the like when non-conforming product is identified.

(End of clause)

#### **4A52.247-83 Seals on Transportation Conveyances (May 2023)**

(a) Contractors—under the supervision of a USDA-AMS certification agent, when applicable—shall be responsible for placing a seal(s) on all cargo doors of each transportation conveyance upon completion of loading, partial unloading, inspection, or servicing.

(b) Seals must meet the [American Society for Testing and Materials](#) (ASTM) Standard, (F-1157-04, and/or the International Organization for Standards (ISO) 17712-2013. Effective July 1, 2023, contractors will be required to use traceable, tamper-evident commercial seals (ex. flat metal, wire, plastic, etc) *or* high security seals (high security bolt, barrier-type, or equivalent device which can only be removed by bolt cutter type tools). Seals shall be sequentially numbered. The contractor or its agent shall provide a sufficient number of traceable tamper-evident seals to ensure security of the load while in route through final destination.

(c) The seal numbers shall be documented on the Bill of Lading, and shipment manifest, certificate, or other delivery documents, as applicable, which must be signed or acknowledged by the carrier or its agent.

(d) It will be the responsibility of the Contractor to provide sufficient number of seals to the carrier service and to ensure that the trailer is sealed after each delivery location (when destined for multiple recipients). The seal number must be recorded on the appropriate delivery document and correspond with the applied seal at the time of arrival at the next destination.

(e) When making deliveries to more than one destination from the same railcar, the quantities required at each stop off must be placed in separate compartments under seal.

(f) Deliveries will be rejected, in which seals have not been used to secure all cargo doors, if:

- the seal listed on the Bill of Lading does not match the seal number recorded on the Bill of Lading;
- the seal is broken;
- the seal is missing, or
- the seal has been removed prior to the transportation conveyance reaching its unloading point.

(g) A rejected conveyance will only be accepted after a Condition of Container Inspection has been performed by Agricultural Marketing Services (AMS. AMS must subsequently issue a Condition of Container examination worksheet that documents that the food containers meet the applicable U.S. Standards for Condition of Food Containers. If this inspection is performed at a location other than the contracted delivery point it is the vendor's responsibility to ensure that all cargo doors be sealed and the seal numbers documented on the vendor's shipping documents.

(h) For frozen products, if the load is rejected by the receiver, the Contractor shall return the load to its plant or with Contracting Officer approval, arrange for another complete inspection which will include: (1) inspecting and certifying the product for quality assurance; and (2) COC, checkloading, sealing, and issuing a Certificate of Loading. The new seal number must be recorded, and a new certificate for condition of container must be issued and presented to the receiver. The Contractor is responsible for all costs (freight, re-inspection fees, etc.) associated with the rejected loads.

(i) Conditions of Container Inspections

(1) Conditions of Container Inspections arrangements are available by accessing the AMS website at: <https://www.ams.usda.gov/services/sci-contacts>

Please select AMS Federal Inspection Offices at:

<https://www.ams.usda.gov/services/sci-contacts/field-inspection-offices>

(2) The Contractor is responsible for payment of all fees incurred as a result of a Condition of Container Inspection.

(End of clause)

**4A52.247-90 Miscellaneous Contract Requirements for F.o.b. Vessel Delivery (June 2021)**

- (a) The Government will furnish the contractor at least ten (10) days advance notice of vessel readiness, unless stated otherwise in the IFB.
- (b) Contractor must forward original Mate's Receipt to the Government's representative within 48 hours after completion of vessel loading.
- (c) If multiple contracts are awarded on an IFB to the same contractor who has designated the same loading berth, the contractor shall complete loading in one continuous berthing. If the contractor elects not to complete loading in one continuous berthing, the contractor will be liable for any charges associated with shifting and reberthing as provided in the Charter Party.
- (d) Contractor agrees to load the Government's nominated vessels in rotation with all vessels for loading at the elevator based on when vessels file and are accepted as ready-to-load in all respects. In the event that the contractor, for its own convenience, elects to by-pass the Government's nominated vessels to load a vessel which filed and was accepted later than the Government's nominated vessel, such action will be construed as failure or refusal of the contractor to perform.
- (e) Contractor will be liable to the Government for any actual damages suffered by the Government resulting from failure or refusal of the contractor to perform, which is not excusable under the default clause of this contract. Such actual damages may include, but are not limited to, the cost of demurrage, inter-port vessel relocation, vessel discharge costs, reprocurement costs, and claims by carriers for damages resulting from delays in loading resulting from the commodity not being available for loading, or for delays or slowness of the vessel loading.
- (f) The contractor shall submit Advance Shipping Notifications (ASNs) in WBSCM within 24 hours of completion of vessel loading.

(End of clause)

**4A52.247-70 Delivery Location (June 2021)**

Shipment of deliverable items, other than reports, shall be to locations selected from the vendor's offer and will be provided at time of award.

(End of clause)

### **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 these addresses:

<https://www.acquisition.gov/browse/index/far>

<https://www.acquisition.gov/agar>

The following clauses are incorporated by reference:

### **52.202-1 Definitions (Jun 2020)**

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

*[Applicable for contracts exceeding the Simplified Acquisition Threshold of \$250,000.]*

### **52.203-5 Covenant against Contingent Fees (May 2014)**

*[Applicable for contracts exceeding the Simplified Acquisition Threshold of \$250,000.]*

### **52.203-6 Restrictions on Subcontractor Sales to the Government (Jun 2020)**

*[Applicable for contracts exceeding the Simplified Acquisition Threshold of \$250,000.]*

### **52.203-7 Anti-Kickback Procedures (Jun 2020)**

*[Applicable for contracts exceeding the Simplified Acquisition Threshold of \$250,000.]*

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

*[Applicable for contracts exceeding the Simplified Acquisition Threshold of \$250,000.]*

### **52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (May 2014)**

*[Applicable for contracts exceeding the Simplified Acquisition Threshold of \$250,000.]*

### **52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Jun 2020)**

*[Applicable for contracts exceeding the Simplified Acquisition Threshold of \$250,000.]*

### **52.203-13 Contractor Code of Business Ethics and Conduct (Nov 2021)**

*[Applicable for contracts with values expected to exceed \$6.0 million, and with a Performance period of 120 days or more.]*

### **52.203-17 Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Nov 2023)**

### **52.204-27 Prohibition on a ByteDance Covered Application (Jun 2023)**

### **52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Nov 2021)**

*[Applicable for contracts exceeding \$35,000.]*

### **52.211-5 Material Requirements (Aug 2000)**

**52.214-26 Audit and Records—Sealed Bidding (Jun 2020)**

*[Applicable for contracts exceeding \$750,000.]*

**52.214-27 Price Reduction for Defective Cost or Pricing Data-Modifications-Sealed Bidding (Jun 2020)**

*[Applicable for contracts exceeding \$750,000.]*

**52.214-28 Subcontractor Cost or Pricing Data—Modifications—Sealed Bidding (Jun 2020)**

*[Applicable for contracts exceeding \$750,000.]*

**52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2022)**

*[Applicable when the IFB stipulates the procurement is for full and open competition]*

**52.219-6 Notice of Total Small Business Set-Aside (Nov 2020)**

*[Applicable when the IFB stipulates the procurement is a partial small business set-aside.]*

**52.219-7 Notice of Partial Small Business Set-Aside (Nov 2020)**

*[Applicable when the IFB stipulates the procurement is a partial small business set-aside.]*

**52.219-8 Utilization of Small Business Concerns (Feb 2024)**

*[Applicable for contracts exceeding the Simplified Acquisition Threshold.]*

**52.219-9 Small Business Subcontracting Plan (Sep 2023) Alternate 1 (Nov 2016)**

*[Applicable for contracts exceeding \$750,000.]*

**52.219-16 Liquidated Damages-Subcontracting Plan (Sep 2021)**

**52.219-28 Post-Award Small Business Program Rerepresentation (Feb 2024)**

**52.219-29 Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Oct 2022)**

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

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

*[Applicable for contracts exceeding \$3,000.]*

**52.222-4 Contract Work Hours and Safety Standards Act-Overtime Compensation (Mar 2018)**

*[Applicable for contracts exceeding \$150,000.]*

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

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

**52.222-37 Employment Reports on Veterans (Jun 2020)**

**52.222-40 Notification of Employee Rights under the National Labor Relations Act. (Dec 2010)**

*[Applicable for contracts over the simplified acquisition threshold and for indefinite-quantity contracts where the value of orders in any calendar year of the contract is expected to exceed the simplified acquisition threshold.]*

**52.222-50 – Combatting Trafficking in Persons (Nov 2021)**

**52.222-54 Employment Eligibility Verification (May 2022)**

**52.225-3 Buy American Act-Free Trade Agreements-Israeli Trade Act (Nov 2023)**

*[Applicable for contracts valued at \$50,000 or more but less than \$183,000 and only to the packaging and container components utilized by commodity vendors selling agricultural products to CPP; not applicable to contracts for empty 50 kg polypropylene bags.]*

**52.225-5 Trade Agreements (Nov 2023)**

*[Applicable for contracts valued at \$50,000 or more but less than \$183,000, if the acquisition is covered by the WTO GPA (see subpart 25,4) and the agency has determined that the restrictions of the Buy American statute are not applicable to U.S.-made end products and only to the packaging and container components utilized by commodity vendors selling agricultural products to CPP; not applicable for empty 50 kg polypropylene bags.]*

**52.225-13 Restrictions on Certain Foreign Purchases (Feb 2021)**

*[Applicable to contracts for empty 50 kg polypropylene bags and only the packaging and container component.]*

**52.226-7 Drug-Free Workplace (May 2024)**

**52.226-8 Encouraging Contractor Policies to Ban Text Messaging While Driving (May 2024)**

**52.228-2 Additional Bond Security (Oct 1997)**

*[Applicable for contracts that require a performance bond.]*

**52.228-11 Pledge of Assets (Feb 2021)**

*[Applicable for contracts that require a performance bond.]*

**52.228-14 Irrevocable Letter of Credit (Nov 2014)**

*[Applicable for contracts that require a performance bond.]*

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

*[Applicable for contracts exceeding the Simplified Acquisition Threshold of \$250,000.]*

**52.232-1 Payments (Apr 1984)**

**52.232-11 Extras (Apr 1984)**

**52.232-17 Interest (May 2014)**

*[Applicable for contracts exceeding the Simplified Acquisition Threshold of \$250,000.]*

**52.232-33 Payment by Electronic Funds Transfer-System for Award Management (Oct 2018)**

**52.232-40 Providing Accelerated Payments to Small Businesses Subcontractors (Mar 2023)**

**52.233-1 Disputes (May 2014)**

**52.233-3 Protest after Award (Aug 1996)**

**52.233-4 Applicable Law for Breach of Contract Claim (Oct 2004)**

**52.242-13 Bankruptcy (Jul 1995)**

*[Applicable for contracts exceeding the Simplified Acquisition Threshold of \$250,000.]*

**52.242-15 Stop-Work Order (Aug 1989)**

**52.242-17 Government Delay of Work (Apr 1984)**

**52.243-1 Changes-Fixed Price (Aug 1987)**

**52.244-6 Subcontracts for Commercial Products and Commercial Services (Feb 2024)**

*[The clause is applicable for contracts exceeding \$5.5 million.]*

**52.247-34 F.o.b. Destination (Nov 1991)**

**52.247-58 Loading, Blocking, and Bracing of Freight Car Shipments (Apr 1984)**

**52.249-1 Termination for Convenience of the Government (Fixed-Price) (Short Form) (Apr 1984)**

*[Applicable for contracts of \$250,000 or less.]*

**52.249-2 Termination for Convenience of the Government (Fixed-Price) (Apr 2012)**

*[Applicable for contracts exceeding \$250,000.]*

**52.249-8 Default (Fixed-Price Supply and Service) (Apr 1984)**

**52.252-4 Alterations in Contract (Apr 1984)**

**52.253-1 Computer Generated Forms (Jan 1991)**

### **III. Solicitation Provisions**

**52.201-1 Acquisition 360: Voluntary Survey (Sept 2023)**

(a) All actual and potential offerors are encouraged to provide feedback on the preaward and debriefing processes, as applicable. Feedback may be provided to agencies up to 45 days after award. The feedback is anonymous, unless the participant self-identifies in the survey. Actual and potential offerors can participate in the survey by selecting the following link:

<https://www.acquisition.gov/360>.

(b) The Contracting Officer will not review the information provided until after contract award and will not consider it in the award decision. The survey is voluntary and does not convey any protections, rights, or grounds for protest. It creates a way for actual and potential offerors to provide the Government constructive feedback about the preaward and debriefing processes, as applicable, used for a specific acquisition.

(End of provision)

#### **52.204-7 System for Award Management (Oct 2018)**

(a) Definitions. As used in this provision—

*Electronic Funds Transfer (EFT) indicator* means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see [subpart 32.11](#)) for the same entity.

*Registered in the System for Award Management (SAM)* means that—

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

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

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

(4) The Government has marked the record "Active".

*Unique entity identifier* means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See [www.sam.gov](http://www.sam.gov) for the designated entity for establishing unique entity identifiers.

(b)

(1) An Offeror is required to be registered in SAM when submitting an offer or quotation, and shall continue to be registered until time of award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable. The unique entity identifier will be used by the Contracting Officer to verify that the Offeror is registered in the SAM.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at [www.sam.gov](http://www.sam.gov) for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

(1) Company legal business name.

(2) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(3) Company physical street address, city, state, and Zip Code.

(4) Company mailing address, city, state and Zip Code (if separate from physical).

(5) Company telephone number.



- (6) Date the company was started.
- (7) Number of employees at your location.
- (8) Chief executive officer/key manager.
- (9) Line of business (industry).
- (9) Company headquarters name and address (reporting relationship within your entity).

d) Processing time should be taken into consideration when registering. Offerors who are not registered in SAM should consider applying for registration immediately upon receipt of this solicitation. See <https://www.sam.gov> for information on registration.

(End of provision)

#### **4A52.204-70 Inquiries (Feb 1988)**

Inquiries and all correspondence concerning this solicitation should be submitted in writing to the Contracting Officer. Offerors should contact only the Contracting Officer issuing the solicitation about any aspect of this requirement prior to contract award.

(End of Provision)

#### **52.204-8 Annual Representations and Certifications (May 2024)**

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is \_\_\_\_\_ *[insert NAICS code]*.

(2) The small business size standard is \_\_\_\_\_ *[insert size standard]*.

(3) The small business size standard for a concern that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce is 500 employees, or 150 employees for information technology value-added resellers under NAICS code 541519 if the acquisition—

(i) Is set aside for small business and has a value above the simplified acquisition threshold;

(ii) Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or

(iii) Is an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(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](#), System for Award Management, is not included in this solicitation, and the Offeror has an active registration in the System for Award Management (SAM), the Offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:

(i)  Paragraph (d) applies.

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

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

- (i) [52.203-2](#), Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless–
- (A) The acquisition is to be made under the simplified acquisition procedures in [part 13](#);
  - (B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or
  - (C) The solicitation is for utility services for which rates are set by law or regulation.
- (ii) [52.203-11](#), Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.
- (iii) [52.203-18](#), Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation. This provision applies to all solicitations.
- (iv) [52.204-3](#), Taxpayer Identification. This provision applies to solicitations that do not include the provision at [52.204-7](#), System for Award Management.
- (v) [52.204-5](#), Women-Owned Business (Other Than Small Business). This provision applies to solicitations that–
- (A) Are not set aside for small business concerns;
  - (B) Exceed the simplified acquisition threshold; and
  - (C) Are for contracts that will be performed in the United States or its outlying areas.
- (vi) [52.204-26](#), Covered Telecommunications Equipment or Services-Representation. This provision applies to all solicitations.
- (vii) [52.209-2](#), Prohibition on Contracting with Inverted Domestic Corporations-Representation.
- (viii) [52.209-5](#), Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.
- (ix) [52.209-11](#), Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.
- (x) [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.
- (xi) [52.215-6](#), Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.
- (xii) [52.219-1](#), Small Business Program Representations (Basic, Alternates I, and II). This provision applies to solicitations when the contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied [part 19](#) in accordance with [19.000\(b\)\(1\)\(ii\)](#).
- (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.

(C) The provision with its Alternate II applies to solicitations that will result in a multiple-award contract with more than one NAICS code assigned.

(xiii) [52.219-2](#), Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied [part 19](#) in accordance with [19.000\(b\)\(1\)\(ii\)](#).

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

(xv) [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.

(xvi) [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 products or commercial services.

(xvii) [52.223-1](#), Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of biobased products in USDA-designated product categories; or include the clause at [52.223-2](#), Reporting of Biobased Products Under Service and Construction Contracts.

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

(xix) [52.223-22](#), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation. This provision applies to solicitations that include the provision at [52.204-7](#).

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

(xxi) [52.225-4](#), Buy American-Free Trade Agreements-Israeli Trade Act Certificate. (Basic, Alternates II and III.) This provision applies to solicitations containing the clause at [52.225-3](#).

(A) If the acquisition value is less than \$50,000, the basic provision applies.

(B) If the acquisition value is \$50,000 or more but is less than \$100,000, the provision with its Alternate II applies.

(C) If the acquisition value is \$100,000 or more but is less than \$102,280, the provision with its Alternate III applies.

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

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

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

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

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

[Contracting Officer check as appropriate.]

- \_\_\_ (i) [52.204-17](#), Ownership or Control of Offeror.
- \_\_\_ (ii) [52.204-20](#), Predecessor of Offeror.
- \_\_\_ (iii) [52.222-18](#), Certification Regarding Knowledge of Child Labor for Listed End Products.
- \_\_\_ (iv) [52.222-48](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment- Certification.
- \_\_\_ (v) [52.222-52](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification.
- \_\_\_ (vi) [52.227-6](#), Royalty Information.
  - \_\_\_ (A) Basic.
  - \_\_\_ (B) Alternate I.
- \_\_\_ (vii) [52.227-15](#), Representation of Limited Rights Data and Restricted Computer Software.

(d) The offeror has completed the annual representations and certifications electronically in SAM website accessed through <https://www.sam.gov>. After reviewing the SAM 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

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

(End of provision)

### **52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)**

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it “does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument” in the provision at [52.204-26](#), Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at [52.212-3](#), Offeror Representations and Certifications-**Commercial Products and Commercial Services**.

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

*Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential*

*component* have the meanings provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services”.

(d) *Representation.* The Offeror represents that—

(1) It  will,  will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds “will” in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It  does,  does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds “does” in paragraph (d)(2) of this section.

(e) *Disclosures.*

(1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded “will” in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded “does” in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(End of provision)

## **52.204-29 Federal Acquisition Supply Chain Security Act Orders-Representations and Disclosures (Dec 2023)**

(a) *Definitions.* As used in this provision, *Covered article, FASCSA order, Intelligence community, National security system, Reasonable inquiry, Sensitive compartmented information, Sensitive*



*compartmented information system*, and *Source* have the meaning provided in the clause [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders—Prohibition.

(b) *Prohibition*. Contractors are prohibited from providing or using as part of the performance of the contract any covered article, or any products or services produced or provided by a source, if the prohibition is set out in an applicable Federal Acquisition Supply Chain Security Act (FASCSA) order, as described in paragraph (b)(1) of FAR [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders—Prohibition.

(c) *Procedures*.

(1) The Offeror shall search for the phrase “FASCSA order” in the System for Award Management (SAM)( <https://www.sam.gov>) for any covered article, or any products or services produced or provided by a source, if there is an applicable FASCSA order described in paragraph (b)(1) of FAR [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders—Prohibition.

(2) The Offeror shall review the solicitation for any FASCSA orders that are not in SAM, but are effective and do apply to the solicitation and resultant contract (see FAR [4.2303](#)(c)(2)).

(3) FASCSA orders issued after the date of solicitation do not apply unless added by an amendment to the solicitation.

(d) *Representation*. By submission of this offer, the offeror represents that it has conducted a reasonable inquiry, and that the offeror does not propose to provide or use in response to this solicitation any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by an applicable FASCSA order in effect on the date the solicitation was issued, except as waived by the solicitation, or as disclosed in paragraph (e).

(e) *Disclosures*. The purpose for this disclosure is so the Government may decide whether to issue a waiver. For any covered article, or any products or services produced or provided by a source, if the covered article or the source is subject to an applicable FASCSA order, and the Offeror is unable to represent compliance, then the Offeror shall provide the following information as part of the offer:

(1) Name of the product or service provided to the Government;

(2) Name of the covered article or source subject to a FASCSA order;

(3) If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied the covered article or the product or service to the Offeror;

(4) Brand;

(5) Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);

(6) Item description;

(7) Reason why the applicable covered article or the product or service is being provided or used;

(f) *Executive agency review of disclosures*. The contracting officer will review disclosures provided in paragraph (e) to determine if any waiver may be sought. A contracting officer may choose not to pursue a waiver for covered articles or sources otherwise subject to a FASCSA order and may instead make an award to an offeror that does not require a waiver.

(End of provision)

#### **4A52.209-90 Past Performance with Regard to Offeror’s Present Responsibility (June 2021)**

Bidders are cautioned NOT to BID on quantities in excess of what they can reasonably expect to timely deliver in accordance with the contract.

(a) The offeror must certify to timely performance on current contracts and subcontracts in the attribute questions of the IFB in WBSCM. The offeror shall notify the Contracting Officer of

late deliveries prior to submission of bids. The Contracting Officer will determine if late performance is beyond the control or negligence of the offeror prior to the bid closing date of the IFB. A false certification may result in rejection of the offer, suspension and debarment by USDA, termination of the contract, liability for damages under the provisions of this Master Solicitation, other administrative actions, or criminal prosecution

- (b) The Contracting Officer may deem the offeror non-responsible and ineligible to participate in an IFB if the offeror or any of their affiliates or subcontractors is delivering late and the late deliveries are not due to causes beyond the offeror's control or negligence.
- (c) Offerors with deficient past performance may be put on a probationary period, limiting the quantity awarded on a solicitation.
- (d) Past performance will be considered during the Contracting Officer's responsibility determination using the Contractor's performance for the last three (3) years prior to bid opening of the IFB.

(End of provision)

#### **52.209-5 Certification Regarding Responsibility Matters (Aug 2020)**

- (a) (1) The Offeror certifies, to the best of its knowledge and belief, that --
  - (i) The Offeror and/or any of its Principals --
    - (A) Are  are not  presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
    - (B) Have  have not , within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks "have", the offeror shall also see 52.209-7, if included in this solicitation); and
    - (C) Are  are not  presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision; and
    - (D) Have , have not , within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at 9.104-5(a)(2) for which the liability remains unsatisfied.
      - (1) Federal taxes are considered delinquent if both of the following criteria apply:
        - (i) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
        - (ii) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
      - (2) Examples.
        - (i) The taxpayer has received a statutory notice of deficiency, under I.R.C. §6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the



taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

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

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

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

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

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

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

- (b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror’s responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

## **52.209-7 Information Regarding Responsibility Matters (Oct 2018)**

(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 (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:
  - (1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:
    - (i) In a criminal proceeding, a conviction.
    - (ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.
    - (iii) In an administrative proceeding, a finding of fault and liability that results in—
      - (A) The payment of a monetary fine or penalty of \$5,000 or more; or
      - (B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.
    - (iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.
  - (2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.
- (d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management which can be accessed via <https://www.sam.gov> (see 52.204-7).

(End of provision)

**4A52.214-15 Period of Acceptance of Bids**

The bidder agrees to hold the prices in its bid firm through the contract award date and time specified in the IFB.

(End of provision)

**4A52.214-70 Electronic Submission of Bids (June 2021)**

- (a) Submit bids to the office specified in the IFB at or before the exact time specified in the IFB. Submission of bids by any means other than as specified in the IFB will be determined nonresponsive. Bids that fail to furnish required representations or information or reject the terms and conditions of the solicitation may be excluded from consideration.
- (b) All prospective bidders are required to submit offers electronically via the USDA Web Based Supply Chain Management (WBSCM) system. All offers are subject to all requirements of WBSCM and the invitation, including but not limited to:
- (c) Obtaining a USDA eAuthentication logon ID and password to access WBSCM. (Contact the WBSCM Help Desk at (877) 927-2648 or WBSCMhelp@ams.usda.gov for information regarding logon IDs, passwords, and WBSCM system questions or concerns.)
- (d) Choosing its own Internet Service Provider (ISP) to transmit, translate, or carry data between the bidder and the Government. The bidder is responsible for the cost of its third-party network. The Government will not be responsible for any failure attributed to the transmission of the bid data prior to being accepted and stored on the Government's web server including, but not limited to, the following:
  - (1) Any failure of the bidder's computer hardware or software;
  - (2) Availability of the ISP;
  - (3) Delay in transmission due to the speed of the modem;
  - (4) Delay in transmission due to excessive volume of Internet traffic.
- (e) When authorized in an IFB, hard copy bids sent through regular mail or hand-delivered must be sealed in an envelope marked with the name and address of the bidder. Bids submitted by express mail shall be sealed inside a second envelope. All envelopes shall be plainly marked: "Do Not Open until Prescribed Time under Invitation for Bid Number (enter appropriate number)." For express mail bids, this statement shall be printed clearly on the outer express envelope, not the mailing label.

(End of provision)

**4A52.214-92 Contract Award – Application of Lowest Landed Cost (June 2021)**

- (a) In accordance with FAR 52.214-10(a), the Government will use the following price-related factors to evaluate bids:
  - (1) For commodities purchased for immediate delivery under international food assistance programs, the lowest-landed cost to the Government to deliver the products to the overseas destination(s), or;
  - (2) For commodities purchased for in-store delivery, the total cost to the Government including location and storage rates.
- (b) With respect to (1) above, as provided in AGAR 470.201 and 470.202, and pursuant to FAR 47.304-3, *Shipments from CONUS for overseas delivery*, the contracting officer reserves the right to reject such offer if the acceptance of another offer for the

- commodity or related freight when combined with offers for commodities or related freight, result in a lower landed cost to the Government.
- (c) Bids for which the Government has not received matching ocean freight offers shall not be considered.

(End of provision)

**52.214-3 Amendments to Invitations for Bid (Dec 2016)**

- (a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.
- (b) (1) Bidders shall acknowledge receipt of any amendment to this solicitation—
- (i) By signing and returning the amendment,
  - (ii) By identifying the amendment number and date in space provided for this purpose on the form for submitting a bid,
  - (iii) By letter;
  - (iv) By facsimile, if facsimile bids are authorized in the solicitation; or
  - (v) By email, if email bids are authorized in the solicitation.
- (2) The Government must receive the acknowledgment by the time and at the place specified for receipt of bids.

(End of provision)

**52.214-4 False Statements in Bids (April 1984)**

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

(End of provision)

**52.214-5 Submission of Bids (Dec 2016)**

- (a) Bids and bid modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means) --
- (1) Addressed to the office specified in the solicitation; and
  - (2) Showing the time and date specified for receipt, the solicitation number, and the name and address of the bidder.
- (b) Bidders using commercial carrier services shall ensure that the bid is addressed and marked on the outermost envelope or wrapper as prescribed in subparagraphs (a)(1) and (2) of this provision when delivered to the office specified in the solicitation.
- (c) Facsimile bids, modifications, or withdrawals will not be considered unless authorized by the solicitation.
- (d) Bids submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

(End of provision)

**52.214-10 Contract Award—Sealed Bidding (July 1990)**

- (a) The Government will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the

solicitation, will be most advantageous to the Government considering only price and the price-related factors specified elsewhere in the solicitation.

- (b) The Government may—
  - (1) Reject any or all bids;
  - (2) Accept other than the lowest bid; and
  - (3) Waive informalities or minor irregularities in bids received.
- (c) The Government may accept any item or group of items of a bid, unless the bidder qualifies the bid by specific limitations. Unless otherwise provided in the Schedule, bids may be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the bidder specifies otherwise in the bid.
- (d) A written award or acceptance of a bid mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the bid shall result in a binding contract without further action by either party.
- (e) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(End of provision)

#### **52.214-12 Preparation of Bids (Apr 1984)**

- (a) Bidders are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at the bidder's risk.
- (b) Each bidder shall furnish the information required by the solicitation. The bidder shall sign the bid and print or type its name on the Schedule and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.
- (c) For each item offered, bidders shall
  - (1) show the unit price, including, unless otherwise specified, packaging, packing, and preservation and
  - (2) enter the extended price for the quantity of each item offered in the "Amount" column of the Schedule.In case of discrepancy between a unit price and an extended price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.
- (d) Bids for supplies or services other than those specified will not be considered unless authorized by the solicitation.
- (e) Bidders must state a definite time for delivery of supplies or for performance of services, unless otherwise specified in the solicitation.
- (f) Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.

(End of provision)

**52.214-22 Evaluation of Bids for Multiple Awards (Mar 1990)**

In addition to other factors, bids will be evaluated on the basis of advantages and disadvantages to the Government that might result from making more than one award (multiple awards). It is assumed, for the purpose of evaluating bids, that \$1000 would be the administrative cost to the Government for issuing and administering each contract awarded under this solicitation, and individual awards will be for the items or combinations of items that result in the lowest aggregate cost to the Government, including the assumed administrative costs.

(End of provision)

**452.219-70 Size Standard and NAICS Code Information**

Commodity	(USDA Commodity Requirement)	NAICS Code	Small Business Size Standard
All Purpose Wheat Flour/Bread Flour Bulgur Wheat/Soy - Fortified Bulgur Cornmeal Corn-Soy Blend Plus Soy-Fortified Cornmeal Super Cereal Plus Wheat Soy Blend	(WFBF) (BWSF) (CM) (CSBP) (SFCM) (SCP) (WSB)	311211	1,050
Milled Rice/Fortified Milled Rice(Bagged) Milled Rice (Bulk) Rice Products	(MR) (KCPG) (RP)	311212	750
Crude or Refined Corn Oil	(BOT)	311221	1,300
Fully Refined Soybean Oil-Bulk Crude Degummed Soybean Oil-Bulk Soybean Meal-Bulk Value Added Soy Products	(BOT) (BOT) (BOT) (VASP)	311224	1,250
Vegetable Oils Sunflower Seed Oil Corn Oil	(VO) (SFSO) (CO)	311225	1,100
Ready-To-Use Supplementary Food Ready-To-Use Therapeutic Food	(RUSF) (RUTF)	311340	1,000
Dehydrated Potato Products	(DPP)	311423	750
Dried Dairy Ingredients	(DDI)	311514	1,000
Tallow	(BOT)	311613	750
Fortified Poultry-Based Spread	(FPBS)	311615	1,250
Canned Salmon	(CPS)	311710	750
Peanut Products	(PP)	311824	850
Bags	(KCP BAGS)	314910	500

Bagged Grain Dry Edible Beans Grain (Bulk) Peas & Lentils	(KCBG) (DEB) (KCPG) (PL)	311999	700
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North American Industrial Classification System Code(s) and business size standard(s) describing the products and/or services to be acquired under this solicitation are listed above. The small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

(End of provision)

**52.222-24 Pre-award On-Site Equal Opportunity Compliance Evaluation (Feb 1999)**

If a contract in the amount of \$10 million or more will result from this solicitation, the prospective Contractor and its known first-tier subcontractors with anticipated subcontracts of \$10 million or more shall be subject to a preaward compliance evaluation by the Office of Federal Contract Compliance Programs (OFCCP), unless, within the preceding 24 months, OFCCP has conducted an evaluation and found the prospective Contractor and subcontractors to be in compliance with Executive Order 11246.

(End of provision)

**52.225-4 Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate (Nov 2023)**

- (a) (1) The offeror certifies that each end product, except those listed in paragraph (b) or (c) of this provision, is a domestic end product.
- (2) The terms “Bahraini, Moroccan, Omani, Panamanian, or Peruvian end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act.
- (b) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahraini, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American--Free Trade Agreements--Israeli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahraini, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

Line Item No.:	Country of Origin:

[List as necessary]

- (c) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (b) of this provision) as defined in the clause of this solicitation entitled “Buy American--Free Trade Agreement--Israeli Trade Act.” The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products:

Line Item No.:	Country of Origin:

[List as necessary]

(d) The Government will evaluate offers in accordance with the policies and procedures of [Part 25](#) of the Federal Acquisition Regulation.

(End of provision)

**52.225-6 Trade Agreements Certificate (Feb 2021)**

- (a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled "Trade Agreements."
- (b) The offeror shall list as other end products those supplies that are not U.S.-made or designated country end products.

Other End Products

Line Item No.	Country of Origin:

[List as necessary]

(c) The Government will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American statute. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for those products are insufficient to fulfill the requirements of this solicitation.

(End of provision)

**52.225-25 Prohibitions on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran - Representation and Certifications (Jun 2020)**

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

*Person--*

(1) Means--

(i) A natural person;



- (ii) A corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and
- (iii) Any successor to any entity described in paragraph (1)(ii) of this definition; and
- (2) Does not include a government or governmental entity that is not operating as a business enterprise.

*Sensitive technology*—

- (1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—
  - (i) To restrict the free flow of unbiased information in Iran; or
  - (ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and
- (2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).
- (b) The offeror shall e-mail questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](mailto:CISADA106@state.gov).
- (c) Except as provided in paragraph (d) of this provision or if a waiver has been granted in accordance with 25.703-4, by submission of its offer, the offeror--
  - (1) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;
  - (2) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act. These sanctioned activities are in the areas of development of the petroleum resources of Iran, production of refined petroleum products in Iran, sale and provision of refined petroleum products to Iran, and contributing to Iran's ability to acquire or develop certain weapons or technologies; and
  - (3) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds the threshold at FAR 25.703-2(a)(2) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx> ).
- (d) *Exception for trade agreements.* The representation requirement of paragraph (c)(1) and the certification requirements of paragraphs (c)(2) and (c)(3) of this provision do not apply if—
  - (1) This solicitation includes a trade agreements notice or certification (e.g., 52.225-4, 52.225-6, 52.225-12, 52.225-24, or comparable agency provision); and
  - (2) The offeror has certified that all the offered products to be supplied are designated country end products or designated country construction material.

(End of provision)

**4A52.228-70 Alternative Forms of Security (Nov 1996)**

If furnished as security, money orders, drafts, cashier's checks, or certified checks shall be drawn payable to: USDA/CCC (Applicable for contracts that require a performance bond.)

(End of provision)

**52.232-15 Progress Payments Not Included (Apr 1984)**

A progress payments clause is not included in this solicitation and will not be added to the resulting contract at the time of award. Bids conditioned upon inclusion of a progress payment clause in the resulting contract will be rejected as nonresponsive.

(End of provision)

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

- (a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from \_\_\_\_\_ . *[Contracting Officer designate the official or location where a protest may be served on the Contracting Officer.]*
- (b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

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

This solicitation incorporates one or more solicitations 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 may 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 addresses:

<https://www.acquisition.gov/browse/index/far>  
<https://www.acquisition.gov/agar>

The following provisions are incorporated by reference:

**52.214-31 Facsimile Bids (Dec 1989)**

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

Offers submitted in response to this solicitation shall be in the English language. Offers received in other than English shall be rejected.

(End of provision)

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

Offers submitted in response to this solicitation shall be in terms of U.S. dollars. Offers received in other than U.S. dollars shall be rejected.

(End of provision)