Subpart 2452.2 - Texts of Provisions and Clauses

Parent topic: PART 2452 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2452.203-70 Prohibition against the use of Federal employees.

As prescribed in 2403.670, insert the following clause in solicitations and contracts:

PROHIBITION AGAINST THE USE OF FEDERAL EMPLOYEES (APR 2019)

In accordance with Federal Acquisition Regulation 3.601, contracts are not to be awarded to Federal employees or a business concern or other organization owned or substantially owned or controlled by one or more Federal employees. For the purposes of this contract, this prohibition against the use of Federal employees includes any work performed by the Contractor or any of its employees, subcontractors, or consultants.

(End of clause)

2452.204-70 Preservation of, and access to, contract records (tangible and electronically stored information (ESI) formats).

As prescribed in 2404.7001, insert the following clause:

Preservation of, and Access to, Contract Records (Tangible and Electronically Stored Information (ESI) Formats) (DEC 2012)

(a) For the purposes of this clause -

Contract records means information created or maintained by the contractor in the performance of the contract. Contract records include documents required to be retained in accordance with FAR 4.703 and other information generated or maintained by the contractor that is pertinent to the contract and its performance including, but not limited to: email and attachments, formal and informal correspondence, calendars, notes, reports, memoranda, spreadsheets, tables, telephone logs, forms, survey, books, papers, photographs, drawings, machine-readable materials, and data. Contract records may be maintained as electronically stored information or as tangible materials. Contract records may exist in either final or any interim version (*e.g.,* drafts that have been circulated for official purposes and contain unique information, such as notes, edits, comments, or highlighting). Contract records may be located or stored on the contractor's premises or at off-site locations.

Electronically stored information (ESI) means any contract records that are stored on, or generated by, an electronic device, or contained in electronically accessible media, either owned by the contractor, subcontractor(s), or employees of the contractor or subcontractor(s) regardless of the

physical location of the device or media (*e.g.,* offsite servers or data storage).

ESI devices and media include, but are not be limited to:

(1) Computers (mainframe, desktop, and laptop);

(2) Network servers, including shared and personal drives;

(3) Individual email accounts of the contractor's principals, officers, and employees, including all folders contained in each email account such as “inbox,” “outbox,” “drafts,” “sent,” “trash,” “archive,” and any other folders;

(4) Personal data assistants (PDAs);

(5) External data storage devices including portable devices (*e.g.,* flash drive); and

(6) Data storage media (magnetic, *e.g.,* tape; optical, *e.g.,* compact disc, microfilm, etc.).

Tangible materials means contract records that exist in a physical (*i.e.,* non-electronic) state.

(b) If during the period of performance of this contract, HUD becomes, or anticipates becoming, a party to any litigation concerning matters related to records maintained or generated by the Contractor in the performance of this contract, the Contracting Officer may provide the contractor with a written (either hardcopy or email) preservation hold notice and certification of compliance with the preservation hold notice. Upon receipt of the hold notice, the Contractor shall immediately take the following actions -

(1) Discontinue any alteration, overwriting, deletion, or destruction of all tangible materials and ESI.

(2) Preserve tangible materials and ESI. The contractor shall preserve ESI in its “native” form to preserve metadata (*i.e.,* creation and modification history of a document).

(3) Identify all individuals who possess or may possess tangible materials and ESI related to this matter, including contractor employees, subcontractors, and subcontractor employees. The contractor shall provide the names of all such individuals via email to the HUD official indicated in the notice.

(4) Document in writing the contractor's efforts to preserve tangible materials and ESI. It may be useful to maintain a log documenting preservation efforts.

(5) Complete the certification of compliance with the preservation hold notice upon receipt and return it to the identified contact person; and

(6) Upon the request of the Contracting Officer, provide the Contracting Officer or other HUD official designated by the Contracting Officer with any of the information described in this clause. The contractor shall immediately confirm receipt of such request. The contractor shall describe in detail any records that the contractor knows or believes to be unavailable and provide a detailed explanation of why they are unavailable, and if known, their location.

(c)

(1) If any request for records pursuant to paragraph (b)(6) of this clause causes an increase in the estimated cost or price or the time required for performance of any part of the work under this

contract, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(2) The Contractor must assert its right to an adjustment under this clause within ____ [*Contracting Officer insert period; 30 days if no other period inserted*] from the date of receipt of the Contracting Officer's request made pursuant to paragraph (b)(6) of this clause. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a request submitted before final payment of the contract.

(3) Failure to agree to any adjustment shall be a dispute under the “Disputes” clause of this contract. However, nothing in this clause shall excuse the contractor from providing the records requested by the Contracting Officer.

(e) The Contractor shall include this clause in all subcontracts.

(End of clause)

Alternate I (DEC 2012) For cost-reimbursement type contracts, substitute the following paragraph (c)(1) for paragraph (c)(1) of the basic clause:

(c)

(1) If any request for records pursuant to paragraph (b)(6) of this clause causes an increase in the estimated cost or price or the time required for performance of any part of the work under this contract, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in any one of the following and modify the contract accordingly -

(i) Estimated cost;

(ii) Delivery or completion schedule, or both; (ii) Amount of any fixed fee; or

(iii) Other affected terms.

Alternate II (DEC 2012) For labor-hour or time-and-materials type contracts, substitute the following paragraph (c)(1) for paragraph (c)(1) of the basic clause:

(c)

(1) If any request for records pursuant to paragraph (b)(6) of this clause causes an increase in the estimated cost or price or the time required for performance of any part of the work under this contract, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in any one or more of the following and will modify the contract accordingly:

(i) Ceiling price;

(ii) Hourly rates;

(iii) Delivery schedule; or

(iv) Other affected terms.

2452.208-71 Reproduction of reports.

As prescribed in 2408.802-70, insert the following clause in solicitations and contracts where the Contractor is required to produce, as an end product, publications or other written materials:

REPRODUCTION OF REPORTS (APR 2019)

In accordance with Title I of the Government Printing and Binding Regulations, printing of reports, data or other written material, if required herein, is authorized provided that the material produced does not exceed 5,000 production units of any page and that items consisting of multiple pages do not exceed 25,000 production units in aggregate. The aggregate number of production units is determined by multiplying the number of pages by the number of copies. A production unit is one sheet, size 8.5 by 11 inches or less, printed on one side only and in one color. All copy preparation to produce camera-ready copy for reproduction must be set by methods other than hot metal typesetting. The reports should be produced by methods employing stencils, masters and plates which are to be used on single unit duplicating equipment no larger than 11 by 17 inches with a maximum image of 10 3/4 by 14 1/4 inches and are prepared by methods or devices that do not utilize reusable contact negatives and/or positives prepared with a camera requiring a darkroom. All reproducibles (camera-ready copies for reproduction by photo offset methods) shall become the property of the Government and shall be delivered to the Government with the report, data, or other written materials.

(End of clause)

2452.209-70 Potential organizational conflicts of interest.

As prescribed in 2409.507-1, the Contracting Officer may insert a provision substantially the same as follows in solicitations:

Potential Organizational Conflicts of Interest (FEB 2000)

(a) The Contracting Officer has determined that the proposed contract contains a potential organizational conflict of interest. Offerors are directed to FAR subpart 9.5 for detailed information concerning organizational conflicts of interest.

(b) The nature of the potential conflict of interest is [*Contracting Officer insert description*]:

(c) Offerors shall provide a statement which describes concisely all relevant facts concerning any past, present or planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed under the proposed contract and bearing on whether the offeror has a possible organizational conflict of interest with respect to:

(1) Being able to render impartial, technically sound, and objective assistance or advice, or

(2) Being given an unfair competitive advantage. The offeror may also provide relevant facts that show how its organizational structure and/or management systems limit its knowledge of possible organizational conflicts of interest relating to other divisions or sections of the organization and how that structure or system would avoid or mitigate such organizational conflict.

(d) No award shall be made until any potential conflict of interest has been neutralized or mitigated to the satisfaction of the Contracting Officer.

(e) Refusal to provide the requested information or the willful misrepresentation of any relevant information by an offeror shall disqualify the offeror from further consideration for award of a contract under this solicitation.

(f) If the Contracting Officer determines that a potential conflict can be avoided, effectively mitigated, or otherwise resolved through the inclusion of a special contract clause, the terms of the clause will be subject to negotiation.

(End of provision)

2452.209-71 Limitation on future contracts.

As prescribed in 2409.507-2, the Contracting Officer may insert a clause substantially the same as follows in solicitations and contracts for services:

Limitation on Future Contracts (FEB 2000)

(a) The Contracting Officer has determined that this contract may give rise to potential organizational conflicts of interest as defined at FAR subpart 9.5.

(b) The nature of the potential conflict of interest is [*Contracting Officer insert description*]

(c) If the contractor, under the terms of this contract or through the performance of tasks pursuant to this contract, is required to develop specifications or statements of work that are to be incorporated into a solicitation, the contractor shall be ineligible to perform the work described in that solicitation as a prime or first-tier subcontractor under any ensuing HUD contract.

(d) Other restrictions - [*Contracting Officer insert description*].

(e) The restrictions imposed by this clause shall remain in effect until [*Contracting Officer insert period or date*].

(End of clause)

2452.209-72 Organizational conflicts of interest.

As prescribed in 2409.508-2, insert the following contract clause in all contracts.

Organizational Conflicts of Interest (APR 1984)

(a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a Government contract and a Contractor's organizational, financial, contractual or other interests are such that:

(1) Award of the contract may result in an unfair competitive advantage; or

(2) The Contractor's objectivity in performing the contract work may be impaired.

(b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict.

The Government may, however, terminate the contract for the convenience of the Government if it would be in the best interest of the Government.

(c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the Government may terminate the contract for default.

(d) The provisions of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

(End of clause)

2452.215-70 Proposal content.

As prescribed in 2415.209(a), insert a provision substantially the same as the following:

Proposal Content (MAR 2016)

(a) Proposals shall be submitted in two parts as described in paragraphs (c) and (d) below. Each of the parts must be complete in itself so that evaluation of each part may be conducted independently, and so the identified parts of each proposal may be evaluated strictly on its own merit. Proposals shall be submitted in the format, if any, prescribed elsewhere in this solicitation. Proposals shall be enclosed in sealed packaging and addressed to the office specified in the solicitation. The offeror's name and address, the solicitation number and the date and time specified in the solicitation for proposal submission must appear in writing on the outside of the package.

(b) The number of proposals required is an original and [*insert number*] copies of Part I, and [*insert number*] copies of Part II.

(c) *Part I - Technical Proposal.*

(1) The offeror shall submit the information required in Instructions to Offerors designated under Part I - Technical Proposal.

(d) *Part II - Business Proposal.*

(1) The offeror shall complete the Representations and Certifications provided in Section K of this solicitation and include them in Part II, Business Proposal.

(2) The offeror shall provide information to support the offeror's proposed costs or prices as prescribed elsewhere in Instructions to Offerors for Part II - Business Proposal.

(3) The offeror shall submit any other information required in Instructions to Offerors designated under Part II - Business Proposal.

(End of provision)

Alternate I (MAR 2016) As prescribed in 2415.209(a), if the proposed contract requires work on, or access to, sensitive automated systems as described in 2452.239-70, add the following subparagraph, numbered sequentially, to paragraph (d):

The offeror shall describe in detail how the offeror will maintain the security of automated systems as required by clause 2452.239-70 in Section I of this solicitation and include it in Part II, Business Proposal.

(End of provision)

Alternate II

Proposal Content Alternate II (APR 2019)

As prescribed in 2415.209(a), add the following paragraph (e) when the size of any proposal Part I or Part II will be limited:

(e) *Size limits of Parts I and II.*

(1) Offerors shall limit submissions of Parts I and II of their initial proposals to the page limitations identified in the Instructions to Offerors. Offerors are cautioned that, if any Part of their proposal exceeds the stipulated limits for that Part, the Government will evaluate only the information contained in the pages up through the permitted number. Pages beyond that limit will not be evaluated.

(2) A page shall consist of one side of a single sheet of 8.5″ x 11″ paper, single-spaced, using not smaller than 12-point type font, and having margins at the top, bottom, and sides of the page of no less than one inch in width.

(3) Any exemptions from this limitation are stipulated under the Instructions to Offerors.

(4) Offerors are encouraged to use recycled paper and to use both sides of the paper (see the FAR clause at 52.204-4).

(End of provision)

2452.215-71 Relative importance of technical evaluation factors to cost or price.

As prescribed in 2415.209(a)(2), insert the following provision:

Relative Importance Of Technical Evaluation Factors To Cost Or Price (DEC 2012)

For the purposes of evaluating offers and the selection of the contractor or contractors under this solicitation, the relative merit of the offeror's technical proposal as evaluated in accordance with the technical evaluation factors listed herein shall be considered [*Contracting Officer insert one of the*

following: “significantly more important than,” “approximately equal to,” or “significantly less important than”] cost or price. While the proposed cost or price will not be assigned a specific weight, it shall be considered a significant criterion in the overall evaluation of proposals.

2452.215-72 Evaluation of small business participation.

As prescribed in 2415.370, insert the following provision:

Evaluation Of Small Business Participation (DEC 2012)

(a) In addition to the technical and management evaluation factors set forth in this solicitation, the Government will evaluate the extent to which all offerors identify and commit to using small businesses in the performance of the contract, whether through joint ventures or teaming arrangements, or as subcontractors. The evaluation shall consider the following:

(1) The extent to which small businesses are specifically identified in proposals;

(2) The extent of commitment to use small businesses (for example, enforceable commitments will be weighted more heavily than non-enforceable ones);

(3) The complexity and variety of the work small businesses are to perform;

(4) The realism of the proposal;

(5) Past performance of the offerors (other than small businesses) in complying with requirements of the clauses at FAR 52.219-8, Utilization of Small Business Concerns, and 52.219-9, Small Business Subcontracting Plan; and

(6) The extent of participation of small businesses in terms of the total value of the contract.

(b) Offerors that are required to submit a subcontracting plan pursuant to the clause at FAR 52.219-9 shall include the small businesses proposed as subcontractors for evaluation under this provision in their subcontracting plan.

(End of provision)

2452.216-70 Estimated cost, base fee and award fee.

As prescribed in 2416.406(e)(1), insert the following clause in all cost-plus-award-fee contracts:

Estimated Cost, Base Fee and Award Fee (FEB 2006)

(a) The estimated cost of this contract is $[*insert amount*].

(b) A base fee is payable in the amount of $[*insert amount*]. The government will make payment of the base fee in [*insert number*] increments on the schedule set forth in the Performance Evaluation Plan established by the government. The amount payable shall be based on the progress toward completion of contract tasks as determined by the Contracting Officer. Payment of the base fee is subject to any withholdings as provided for elsewhere in this contract.

(c) A maximum award fee available for payment is $[*insert amount*]. The government shall make payments of the award fee in accordance with the schedule established in the Performance Evaluation Plan and the Evaluation Period(s) set forth in the Distribution of Award Fee clause.

(End of clause)

2452.216-71 Award fee.

As prescribed in 2416.406(e)(2), insert the following clause in all fixed-price-award-fee contracts:

Award Fee (FEB 2006)

In addition to the fixed-price for this contract set forth in the Schedule, a maximum award fee of $[insert amount] is available for payment. The government shall make payments of the award fee in accordance with the schedule established in the Performance Evaluation Plan and the Evaluation Period(s) set forth in the Distribution of Award Fee clause.

(End of clause)

2452.216-72 Determination of award fee earned.

As prescribed in 2416.406(e)(3), insert the following clause in all award fee contracts:

Determination of Award Fee Earned (FEB 2006)

(a) At the conclusion of each evaluation period specified in the Performance Evaluation Plan, the government shall evaluate the contractor's performance and determine the amount, if any, of award fee earned by the contractor. The amount of award fee to be paid will be determined by the designated Fee Determination Official's (FDO's) judgmental evaluation in accordance with the criteria set forth in the Performance Evaluation Plan. This decision will be made unilaterally by the government. In reaching this decision, the FDO may consider any justification of award fee the contractor submits, provided that the justification is submitted within [insert number] days after the end of an evaluation period. The FDO determination shall be in writing, shall set forth the basis of the FDO's decision, and shall be sent to the contractor within [*insert number*] days after the end of the evaluation period.

(b) The FDO may specify in any fee determination that any amount of fee not earned during the evaluation period may be accumulated and allocated for award during a later evaluation period. The Distribution of Award Fee clause shall be amended to reflect the allocation.

(End of clause)

2452.216-73 Performance evaluation plan.

As prescribed in 2416.406(e)(3), insert the following clause in all award fee contracts:

Performance Evaluation Plan (AUG 1987)

(a) The Government shall unilaterally establish a Performance Evaluation Plan that will provide the basis for the determination of the amount of award fee awarded under the contract. The Plan shall set forth evaluation criteria and percentage of award fee available for

(1) technical functions, including schedule requirements if appropriate, (2) management functions; and, (3) cost functions. The Government shall furnish a copy of the Plan to the Contractor (*insert number*) days before the start of the first evaluation period.

(b) The Government may unilaterally change the award fee plan prior to the beginning of subsequent evaluation periods. The Contracting Officer will provide such changes in writing to the Contractor prior to the beginning of the applicable evaluation period.

(End of clause)

2452.216-74 Distribution of award fee.

As prescribed in 2416.406(e)(3), insert the following clause in all award fee contracts:

Distribution of Award Fee (FEB 2006)

(a) The total amount of award fee available under this contract is assigned to the following evaluation periods in the following amounts:

Evaluation Period: [*insert time period*]

Available Award Fee: [*insert dollar amount*]

(b) In the event of contract termination, either in whole or in part, the amount of award fee available shall represent a pro-rata distribution associated with evaluation period activities or events as determined by the Fee Determination Official as designated in the contract.

(End of clause)

Alternate I (FEB 2006). As prescribed in 2416.406(e)(3), add paragraph (c):

(c) The contract clauses required for cost-reimbursement contracts shall be modified for use under award fee contracts as cited below:

(1) The term “base fee and award fee” shall be substituted for “fixed fee” where it appears in the clause at FAR 52.243-2, Changes - Cost Reimbursement.

(2) The term “base fee” shall be substituted for “fee” where it appears in the clauses at FAR 52.232-20, Limitation of Costs, and FAR 52.232-22, Limitation of Funds.

(3) The phrase “base fee, if any, and such additional fee as may be awarded as provided for in the Schedule” shall be substituted for the term “fee” whenever it appears in the clause at FAR 52.216-7, Allowable Cost and Payment.

(End of clause)

2452.216-75 Unpriced task orders.

As prescribed in 2416.506-70(a), insert the following clause:

Unpriced Task Orders (FEB 2006)

(a) Prior to the issuance of a task order under this contract, it is anticipated that the government and the contractor will reach agreement on the price or total cost and fee (if applicable) for the services to be provided under the order. The Contracting Officer may authorize commencement of work prior to final agreement on cost or price. In such case, the contractor shall immediately commence performance of the services specified in the order and shall submit a pricing proposal within 15 days of receipt of the task order. Upon completion of negotiations, the final negotiated cost or price will be set forth in a supplemental agreement that is executed by the contractor and the Contracting Officer. Failure to agree upon the cost or price shall be considered a dispute subject to the Disputes clause of this contract.

(b) Unpriced task orders shall indicate a “not-to-exceed” amount for the order; however, such amount shall not exceed 50 percent of the estimated cost of the task order. The task order shall only require the Contracting Officer's signature, but shall also comply with all other task order requirements. Unpriced task orders shall indicate the date by which the government anticipates that the cost or price of the order will be definitized.

(End of clause)

2452.216-76 Minimum and maximum quantities or amounts for order.

As prescribed in 2416.506-70(b), insert the following clause:

Minimum and Maximum Quantities or Amounts for Order (DEC 2012)

(a) The minimum quantity or amount to be ordered under this contract shall not be less than [*contracting officer insert quantity or amount*].

(b) The maximum quantity or amount to be ordered under this contract shall not exceed [*contracting officer insert quantity or amount*].

(End of clause)

2452.216-77 Estimated quantities - requirements contract.

As prescribed in 2416.506-70(c), insert the following provision:

Estimated Quantities - Requirements Contract (FEB 2006)

In accordance with FAR 52.216-21(a), the government provides the following estimates:

The estimated quantity or amount of supplies or services the government may order during the ordering period of this contract is _____ [*insert description of item(s) or unit(s) and the estimated number of units or the dollar value*].

The maximum quantity or amount of supplies or services the government may order during the ordering period of this contract is _____ [*insert description of item(s) or unit(s) and the estimated number of units or the dollar value*].

(End of provision)

2452.216-78 Ordering procedures.

As prescribed in 2416.506-70(d), insert the following provision:

Ordering Procedures (FEB 2006)

(a) Orders issued under this contract may be placed in writing or via [*Contracting Officer to insert authorized ordering methods, e.g., telephone, facsimile (fax) machine, electronic mail (e-mail)*].

(End of clause)

Alternate I (FEB 2006). As prescribed in 2416.506-70(d), add paragraph (b):

(b) In addition to the Contracting Officer, the following individuals are authorized to issue orders under this contract:

[Continue as necessary]

(End of clause)

Alternate II (FEB 2006). As prescribed in 2416.506-70(d), add paragraph (b):

(b) This contract provides for the issuance of task orders on a negotiated basis as follows:

(1) The Contracting Officer will provide the contractor(s) with a statement of work or task description. The contractor(s) shall provide pricing and other information requested by the Contracting Officer (e.g., proposed staffing, plan for completing the task, etc.) within the time period specified by the Contracting Officer. Failure by any contractor to provide all the requested information on time may result in the contractor not being considered or selected for issuance of the order.

(2) The Contracting Officer may require the contractor(s) to present and/or discuss (see (3) below) the proposed task order terms orally. The Contracting Officer will provide the contractor(s) with guidance on the format, location, and duration of any presentations.

(3) The Contracting Officer may discuss the proposed task order terms with the contractor(s) to ensure mutual understanding of the contractor(s)'s technical approach and/or costs or price and/or to reach mutually acceptable final terms for the task order. If more than one contractor is being considered for the task order, any discussions will be held individually with each contractor.

(4) The task order shall be executed by the contractor and the Contracting Officer.

(End of clause)

2452.216-79 Estimated cost (no fee).

As prescribed in 2416.307(b), insert the following clause:

Estimated Cost (No Fee) (DEC 2012)

(a) It is estimated that the total reimbursable cost to the Government for full performance of this contract will be $____ [*Contracting Officer insert amount*].

(b) If this contract is incrementally funded, the following shall apply:

(1) Total funds currently available for payment and allotted to this contract are $____ [*Contracting Officer insert amount*] (see also the clause at FAR 52.232-22, "Limitation of Funds" herein).

(2) If and when the contract is fully funded, as specified in paragraph (a) of this clause, the clause at FAR 52.232-20, Limitation of Cost, herein, shall become applicable.

(3) The Contracting Officer may allot additional funds to the contract up to the total specified in paragraph (a) of this clause without the concurrence of the contractor.

(End of clause)

2452.216-80 Estimated cost and fixed-fee.

As prescribed in 2416.307(b), insert the following clause:

ESTIMATED COST AND FIXED-FEE (APR 2019)

(a) It is estimated that the total cost to the Government for full performance of this contract will be $_____[Contracting Officer insert amount], of which $_____[Contracting Officer insert amount] represents the estimated reimbursable costs, and $_____[Contracting Officer insert amount] represents the fixed fee.

(b) If this contract is incrementally funded, the following shall apply:

(1) Total funds currently available for payment and allotted to this contract are $_____[Contracting Officer insert amount], of which $_____[Contracting Officer insert amount] represents the limitation for reimbursable costs and $ _____[Contracting Officer insert amount] represents the prorated amount of the fixed fee (see also the clause at FAR 52.232-22, "Limitation of Funds" herein).

(2) If and when the contract is fully funded, as specified in paragraph (a) of this clause, the clause at FAR 52.232-20, "Limitation of Cost," herein, shall become applicable.

(3) The Contracting Officer may allot additional funds to the contract up to the total specified in paragraph (a) of this clause without the concurrence of the contractor.

(End of clause)

2452.216-81 Level of effort and fee payment.

As prescribed in 2416.506-70(f), insert the following clause in all level-of-effort term contracts:

LEVEL OF EFFORT AND FEE PAYMENT (APR 2019)

(a) The total level of effort to be provided under this contract is _____hours. The Contractor shall be reimbursed for the actual labor costs incurred.

(b) The contractor shall be paid the fixed fee specified in B.____, Estimated Cost and Fixed Fee, herein, on a prorated basis in proportion to the percentage of the level of effort (LOE) performed at the time of billing in accordance with the following formula:

(Number of acceptable hours delivered) divided by (Total hours in level of effort) × (Total fixed fee) = Fee payment

(*e.g.,* 1,000 hours delivered/10,000 hours (LOE) × $15,000 = $1,500)

(c) In no event shall the amount of fee paid under the contract exceed the total fixed fee specified in B.[ ], Estimated Cost and Fixed Fee, herein.

(End of clause)

2452.216-82 Labor categories, requirements, and estimated level of effort.

As prescribed in 2416.506-70(g), insert the following provision in all level-of-effort solicitations:

LABOR CATEGORIES, REQUIREMENTS, AND ESTIMATED LEVEL OF EFFORT (APR 2019)

(a) The Government anticipates that the following categories of labor shall be necessary to provide the services required by any contract resulting from this solicitation. Offerors must provide evidence that proposed staff meet the technical requirements for each category.

(1) [Insert labor titles and technical requirements]

(b) To assist offerors in the preparation of proposals, the Government estimates that the following levels of effort (staff hours) will be necessary to provide the services required by any contract resulting from this solicitation. These estimates are not binding on the Government. Offerors must break out their proposed costs by labor category. The contract performance period is intended to be for a total of [ ] months (a base period of [ ] months with [ ] [insert number of options] [ ] [insert number of months per option]-month option periods. The actual duration of the base period may be different. Offerors may propose labor at different rates per contract period.

Staff Hours

Labor category	Base period	1st option period	2nd option period	3rd option period	4th option period
[Insert titles and estimated number of hours per category]					

(End of provision)

2452.219-70 Small business subcontracting plan compliance.

As prescribed in 2419.708(d), insert the following provision:

Small Business Subcontracting Plan Compliance (FEB 2006)

(a) This provision is not applicable to small business concerns.

(b) Offerors' attention is directed to the provisions in this solicitation at FAR 52.219-8, Utilization of Small Business Concerns, and the clause at FAR 52.219-9, Small Business Subcontracting Plan.

(c) The government will consider offerors' prior compliance with subcontracting plans in determining their responsibility (see FAR 9.104-3). Therefore, offerors having previous contracts with subcontracting plans shall provide the following information: agency name; agency point of contact; contract number; total contract value; a synopsis of the work required under the contract; the role(s) of the subcontractor(s) involved; and the applicable goals and actual performance (dollars and percentages) for subcontracting with the types of small business concerns listed in the clause at FAR 52.219-9. This information shall be provided for the three most recently completed contracts with such subcontracting plans.

(End of provision)

2452.219-71 Notification of competition limited to eligible 8(a) concerns - Alternate III to FAR 52.219-18.

As prescribed in 2419.811-3(d)(3), insert the following clause:

Notification of Competition Limited to Eligible 8(a) Concerns - Alternate III to FAR 5219-18 (DEC 2012)

The following paragraph (c) replaces paragraph (c) of the clause at FAR 52.219-18, Notification of Competition Limited to Eligible 8(a) Concerns:

(c) Any award resulting from this solicitation will be made directly by the HUD Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

2452.219-72 Section 8(a) direct awards.

As prescribed in 2419.811-3(f), insert the following clause:

SECTION 8(A) DIRECT AWARD (APR 2019)

(a) This contract is issued as a direct award between the Department of Housing and Urban Development (HUD) and the 8(a) Contractor pursuant to a Partnership Agreement (Agreement) between the Small Business Administration (SBA) and HUD. The SBA retains responsibility for 8(a) certification, 8(a) eligibility determinations and related issues, and providing counseling and assistance to the 8(a) contractor under the 8(a) program. The cognizant SBA district office is:

[To be completed by Contracting Officer at time of award].

(b) SBA is the prime contractor and _____[insert name of 8(a) contractor] is the subcontractor under this contract. Under the terms of the Agreement, HUD is responsible for administering the contract and taking any action on behalf of the Government under the terms and conditions of the contract. However, the HUD Contracting Officer shall give advance notice to the SBA before issuing a final notice terminating performance, either in whole or in part, under the contract. The HUD Contracting Officer shall also coordinate with SBA prior to processing any novation agreement(s). HUD may assign contract administration functions to a contract administration office.

(c) _____[insert name of 8(a) contractor] agrees:

(1) To notify the HUD Contracting Officer, simultaneously with its notification to SBA (as required by SBA's 8(a) regulations), when the owner or owners upon whom 8(a) eligibility is based, plan to relinquish ownership or control of the concern. Consistent with 15 U.S.C. 637(a)(21), transfer of ownership or control shall result in termination of the contract for convenience unless SBA waives the requirement for termination prior to the actual relinquishing of ownership or control.

(2) To adhere to the requirements of FAR 52.219-14, “Limitations on Subcontracting.”

(End of Clause)

2452.219-73 Incorporation of subcontracting plan.

As prescribed in 2419.708(b), insert the following clause:

Incoporation Of Subcontracting Plan (DEC 2012)

The Contractor's approved subcontracting plan, dated ____ [*Contracting Officer insert date*] is hereby incorporated by reference and made a part of this contract.

(End of clause)

2452.219-74 Small business subcontracting goals.

As prescribed in 2419.708(b), insert the following provision:

Small Business Subcontracting Goals (DEC 2012)

(a) This provision does not apply to offerors that are small businesses.

(b) The offeror's attention is directed to the FAR clause at 52.219-9, “Small Business Subcontracting Plan,” herein. HUD will evaluate proposed subcontracting plans using the Departmental small business subcontracting goals set forth in paragraph (c) of this clause. Offerors that are unable to propose subcontracting that meets HUD's established goals must provide the rationale for their proposed level of subcontracting.

(c) HUD's subcontracting goals are as follows:

(i) Small Business - __% [*Contracting Officer insert HUD small business subcontracting goal percentage*]

(ii) The total Small Business goal shown in paragraph (c)

(i) of this clause contains the following subordinate goals [*Contracting Officer insert percentages*]:

(A) Small Disadvantaged Business - __%

(B) Women-Owned Small Business - __%

(C) Service-Disabled Veteran-Owned Small Business - __%

(D) HUBZone Small Business - __%

(End of provision)

2452.222-70 Accessibility of meetings, conferences, and seminars to persons with disabilities.

As prescribed in 2422.1408(c), insert the following clause in all solicitations and contracts:

Accessibility of Meetings, Conferences, and Seminars to Persons With Disabilities (FEB 2006)

The contractor shall assure that any meeting, conference, or seminar held pursuant to the contract meets all applicable standards for accessibility to persons with disabilities pursuant to section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and any implementing regulations of the Department. The contractor shall be responsible for ascertaining the specific accessibility needs (e.g., sign language interpreters) for each meeting, conference, or seminar in light of the known or anticipated attendees.

(End of clause)

2452.227-70 Government information.

As prescribed in 2427.470, use the following clause:

Government Information (DEC 2012)

(a) *Definitions.* As used in this clause, “Government information” includes -

Contractor-acquired information, which means information acquired or otherwise collected by the Contractor on behalf of the Government in the context of the Contractor's duties under the contract.

Government-furnished information (GFI), which means information in the possession of, or directly acquired by, the Government and subsequently furnished to the Contractor for performance of a contract. GFI also includes contractor-acquired information if the contractor-acquired information is a deliverable under the contract and is for continued use under the contract. Otherwise, GFI does not include information that is created by the Contractor and delivered to the Government in accordance with the requirements of the work statement or specifications of the contract. The type, quantity, quality, and delivery requirements of such deliverable information are set forth elsewhere in the contract schedule.

(b) *Information Management and Information Security.*

(1) The Contractor shall manage, account for, and secure all Government information provided or acquired by the contractor. The Contractor shall be responsible for all Government information provided to its subcontractors. The Contractor agrees to include a requirement in each subcontract under this contract that flows down the protection from disclosure requirements.

(2) The Contractor's responsibility for Government information extends from the initial provision or acquisition and receipt of information, through stewardship, custody, and use until returned to, or otherwise disposed of, as directed by the Contracting Officer. This requirement applies to all Government information under the Contractor's accountability, stewardship, possession or control, including its subcontractors.

(c) *Use of Government information.*

(1) The Contractor shall not use any information provided or acquired under this contract for any purpose other than in the performance of this contract.

(2) The Contractor shall not modify or alter the Government information, unless authorized in writing, in advance, by the Contracting Officer.

(d) *Government-furnished information.*

(1) The Government shall deliver to the Contractor the information described below -

Description Date to be Provided

[*Contracting Officer insert*]

(2) The delivery and/or performance dates specified in this contract are based upon the expectation that the Government-furnished information will be suitable for contract performance and will be delivered to the Contractor by the dates stated in paragraph (d)(1) of this clause.

(i) The Government does not warrant the validity or accuracy of the Government-furnished information unless otherwise noted.

(ii) In the event that information received by the Contractor is not in a condition suitable for its intended use, the Contractor shall immediately notify the Contracting Officer in writing. Upon receipt of the Contractor's notification, the Contracting Officer shall advise the Contractor on a course of action to remedy the problem.

(iii) If either the failure of the Government to provide information to the Contractor by the dates shown in this clause or the remedial action taken under this clause to correct defective information causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, the Contracting Officer shall consider an equitable adjustment to the contract. The Contractor shall provide to the Contracting Officer its written statement describing the general nature and amount of the equitable adjustment proposal within 30 days after the remedial action described in paragraph (ii) herein is completed, or within 30 days after the date upon which the Government failed to provide information, unless the Contracting Officer extends this period.

(3)

(i) The Contracting Officer may, by written notice, at any time -

(A) Increase or decrease the amount of Government-furnished information under this contract;

(B) Substitute other Government-furnished information for the information previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract; or

(C) Withdraw authority to use the information.

(ii) Upon completion of any action(s) under paragraph (d)(3)(i) of this clause, and the Contractor's timely written request, the Contracting Officer shall consider an equitable adjustment to the contract.

(e) *Rights in information.* Government information is the property of the U.S. Government unless otherwise specifically identified. The specific rights in any other information acquired or created by the Contractor under this contract shall be as expressed in the "*Rights in Data*" clause contained in this contract.

(f) *Government access to information.* The Government shall have the right to access any Government information maintained by the contractor and any subcontractors. The Contractor shall provide the Contracting Officer, and other duly authorized Government representatives, with access to all Government information, including access to the Contractor's facilities, as necessary, promptly upon written notification by the Contracting Officer. Such notification may be by electronic mail.

(g) *Contractor liability for Government information.*

(1) Unless otherwise provided for in the contract, the Contractor shall not be liable for loss, theft, damage, or destruction to the Government information furnished or acquired under this contract, except when the loss, theft, damage, or destruction is the result of the Contractor's failure to properly manage, account for, and safeguard the information in accordance with this clause.

(2) In the event of any loss, theft, damage, or destruction of Government information, the Contractor shall immediately take all reasonable actions necessary to protect the Government information from

further loss, theft, damage, or destruction.

(3) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss, theft, damage, or destruction of Government information.

(h) *Information alteration and disposal.* Except as otherwise provided for in this contract, the Contractor shall not alter, destroy, or otherwise dispose of any Government information unless expressly directed by the Contracting Officer to do so.

(i) *Return of Government information to the Government.* (1) The Government may require the Contractor to return Government Information to the Government at any time. Upon demand by the Contracting Officer or his/her representative, the Contractor shall return all Government information to the Government as directed by the Contracting Officer or other individual designated by the Contracting Officer.

(2) The Contractor's failure to return all information as directed, including directions regarding the time frames for delivery back to the Government and directions prescribing the form in which the data must be returned, shall be considered a breach of contract, and the Government shall have the right to physically remove the Government information from the Contractor, including removal of such information from the Contractor's physical premises and from any electronic media (e.g., Contractor's computer systems).

(3) When required to return Government information to the Government, the Contractor shall do so at no cost to the Government. The Government shall not be responsible for the cost of data format conversion and the cost of delivery, if any.

(4) The Contractor shall ensure that all Government information provided to subcontractors is returned to the Government.

(j) *Equitable adjustment.* Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. However, the Government shall not be liable for breach of contract for the following:

(1) Any delay in delivery of Government-furnished information.

(2) Delivery of Government-furnished information in a condition not suitable for its intended use.

(3) An increase, decrease, or substitution of Government-furnished information.

(4) Failure to correct or replace Government information for which the Government is responsible.

(k) *Subcontracts.* The Contractor shall ensure that all subcontracts under which Government information is provided to a subcontractor include the basic terms and conditions set forth in paragraphs (a), (b), (c), (f), and (h) of this clause in each subcontract. Subcontracts shall clearly describe the Government information provided to the subcontractor. The Contractor shall be responsible for all Government information provided to subcontractors.

Alternate I. When the contracting officer determines that the failure to return Government information as provided for in paragraph (i) of this clause shall result in a monetary damage to the Government, the contracting officer shall include the following additional paragraph (i)(5) of this clause. The contracting officer shall consult the requiring activity to determine an amount or percentage that accurately reflects the damages to the Government.

(5) In the event of Contractor delay in returning the Government Information to the Government, for each calendar day late, the Contracting Officer has the discretion to deduct _____ [*Contracting Officer insert dollar amount or percentage*] from the total value of the contract, and/or withhold payment from the Contractor.

(End of clause)

2452.232-70 Payment schedule and invoice submission (Fixed-Price).

As prescribed in HUDAR Section 2432.908(c)(2), insert the following clause in all fixed price solicitations and contracts where invoicing and payments will NOT be made through the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system:

Payment Schedule and Invoice Submission (Fixed-Price) (MAR 2016)

(a) *Payment schedule.* Payment of the contract price (see Section B of the contract) will be made upon completion and acceptance of all work unless a partial payment schedule is included below.

[Contracting Officer insert schedule information]:

Partial payment number	Applicable contract deliverable	Delivery date	Payment amount
1. [ ]			
2. [ ]			
3. [ ]			

[*Continue as necessary*]

(b) *Submission of invoices.*

(1) The Contractor shall submit invoices as follows: original to the payment office and one copy each to the Contracting Officer and a copy to the Government Technical Representative (GTR) identified in the contract. To constitute a proper invoice, the invoice must include all items required by the FAR clause at 52.232-25, “Prompt Payment.”

(2) To assist the government in making timely payments, the contractor is also requested to include on each invoice the appropriation number shown on the contract award document (*e.g.,* block 14 of the Standard Form (SF) 26, block 21 of the SF-33, or block 25 of the SF-1449). The contractor is also requested to clearly indicate on the mailing envelope that an invoice is enclosed.

(c) *Contractor remittance information.* The contractor shall provide the payment office with all information required by other payment clauses or other supplemental information (*e.g.,* contracts for

commercial services) contained in this contract.

(d) *Final invoice payment.* The final invoice will not be paid prior to certification by the Contracting Officer that all work has been completed and accepted.

(End of clause)

Alternate I (MAR 2016) As prescribed in HUDAR section 2432.908(c)(2), replace paragraph (b)(1) and (b)(2) with the following Alternate I paragraphs to HUDAR Clause 2452.232-70 Payment Schedule and Invoice Submission (Fixed-price) for fixed price solicitations and contracts other than performance-based under which performance-based payments will be used and where invoices are to be submitted electronically by email but will not be paid through the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system:

(b) *Submission of invoices.*

(1) The contractor shall submit invoices electronically via email to the email addresses shown on the contract award document (*e.g.,* block 12 of the Standard Form (SF) 26, block 25 of the SF-33, or block 18a of the SF-1449) and carbon copy the Contracting Officer and the Government Technical Representative (GTR). To constitute a proper invoice, the invoice must include all items required by the FAR clause at 52.232-25, "Prompt Payment." The contractor shall clearly include in the Subject line of the email: INVOICE INCLUDED; CONTRACT/ORDER #: _____, INVOICE NUMBER _____ and Contract Line Item Number(s) _____.

(2) To assist the government in making timely payments, the contractor is also requested to include on each invoice the appropriation number shown on the contract award document (*e.g.,* block 14 of the Standard Form (SF) 26, block 21 of the SF-33, or block 25 of the SF-1449).

(End of Alternate I)

Alternate II (APR 2019)

As prescribed in HUDAR Section 2432.908(c)(2), replace paragraphs (b)(1) and (2) of the HUDAR Clause 2452.232-70 Payment Schedule and Invoice Submission (Fixed-price) with the following Alternate II language in all fixed-price solicitations and contracts when requiring invoices to be submitted electronically to the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system:

(b) Submission of invoices.

(1) The Contractor shall obtain access and submit invoices to the Department of Treasury Bureau of Fiscal Services' Invoice Platform Processing System via the Web at URL: *https://arc.publicdebt.treas.gov/ipp/fsippqrg.htm* in accordance with the instructions on the website. To constitute a proper invoice, the invoice must include all items required by the FAR clause at 52.232-25, "Prompt Payment."

(2) To assist the Government in making timely payments, the Contractor is also requested to include on each invoice the appropriation number shown on the contract award document (*e.g.,* block 14 of the Standard Form (SF) 26, block 21 of the SF-33, or block 25 of the SF-1449).

(End of Alternate II)

2452.232-71 Voucher submission (cost-reimbursement, time-and-materials, and labor hour).

As prescribed in HUDAR Section 2432.908(c)(3), insert the following clause in all cost-reimbursable, time-and-materials, and labor-hour solicitations and contracts where vouchering and payments will NOT be made through the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system:

2452.232-71 VOUCHER SUBMISSION (COST-REIMBURSEMENT, TIME-AND-MATERIALS, AND LABOR-HOUR) (APR 2019)

(a) *Voucher submission.*

(1) The Contractor shall submit _____ [Contracting Officer insert billing period, *e.g.,* monthly], an original and two copies of each voucher. In addition to the items required by the clause at FAR 52.232-25, Prompt Payment, the voucher shall show the elements of cost for the billing period and the cumulative costs to date. The Contractor shall submit all vouchers, except for the final voucher, as follows: Original to the payment office and one copy each to the Contracting Officer and the Contracting Officer's Representative (COR) identified in the contract. The Contractor shall submit all copies of the final voucher to the Contracting Officer.

(2) To assist the Government in making timely payments, the Contractor is requested to include on each voucher the applicable appropriation number(s) shown on the award or subsequent modification document (*e.g.,* block 14 of the Standard Form (SF) 26, or block 21 of the SF-33). The Contractor is also requested to clearly indicate on the mailing envelope that a payment voucher is enclosed.

(b) *Contractor remittance information.*

(1) The Contractor shall provide the payment office with all information required by other payment clauses contained in this contract.

(2) The Contractor shall submit all necessary supporting documentation with vouchers that adequately demonstrate that costs claimed (1) have been incurred (including time sheets from the prime and subcontractor's automated or manual time tracking records and paid invoices for materials acquired), (2) reflect that they are allocable to the contract tasks, and (3) comply with cost principles in the Federal Acquisition Regulation and HUD Acquisition Regulation. The Contracting Officer may disallow all or part of a claimed cost that is inadequately supported.

(3) For time-and-materials and labor-hour contracts, the Contractor shall aggregate vouchered costs by the individual task for which the costs were incurred and clearly identify the task or job.

(c) *Final payment.* The final payment shall not be made until the Contracting Officer has certified that the Contractor has complied with all terms of the contract.

(End of clause)

Alternate I (APR 2019)

As prescribed in HUDAR Section 2432.908(c)(3), replace paragraphs (a)(1) and (2) with the following Alternate I paragraphs to HUDAR Clause 2452.232-71, Voucher Submission (Cost

Reimbursement, Time-and-Materials, and Labor Hour) in time and material, cost-reimbursable and labor hour solicitations and contracts other than performance-based under which performance-based payments will be used and where invoices are to be submitted electronically by email, but will not be paid through the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system.

(a) *Voucher submission.*

(1) The Contractor shall submit vouchers electronically via email to the email addresses shown on the contract award document (*e.g.,* block 12 of the Standard Form (SF) 26, block 25 of the SF-33, or block 18a of the SF-1449) and carbon copy the Contracting Officer and the Contracting Officer's Representative (COR). In addition to the items required by the clause at FAR 52.232-25, Prompt Payment, the voucher shall show the elements of cost for the billing period and the cumulative costs to date. The Contractor shall clearly include in the Subject line of the email: VOUCHER INCLUDED; CONTRACT/ORDER #: _____, VOUCHER NUMBER _____ and CONTRACT LINE ITEM NUMBER(S) _____

(2) To assist the Government in making timely payments, the Contractor is requested to include on each voucher the applicable appropriation number(s) shown on the award or subsequent modification document (*e.g.,* block 14 of the Standard Form (SF) 26, or block 21 of the SF-33).

(End of Alternate I)

As prescribed in HUDAR Section 2432.908(c)(3), replace paragraphs (a)(1) and (2) of the HUDAR Clause 2452.232-71, Voucher Submission (Cost- Reimbursement, Time-And-Materials, And Labor Hour) with the following Alternate II language in all cost-reimbursement, time-and-materials, and labor-hour type solicitations and contracts when requiring vouchers to be submitted electronically to the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system.

Alternate II (APR 2019)

(a) *Voucher submission.*

(1) The Contractor shall obtain access and submit invoices to the Department of Treasury Bureau of Fiscal Services' Invoice Platform Processing System via the Web at URL: *https://arc.publicdebt.treas.gov/ipp/fsippqrg.htm* in accordance with the instructions on the website. To constitute a proper voucher, in addition to the items required by the clause at FAR 52.232-25, Prompt Payment, the voucher shall show the elements of cost for the billing period and the cumulative costs to date.

(2) To assist the Government in making timely payments, the Contractor is requested to include on each voucher the applicable appropriation number(s) shown on the award or subsequent modification document (*e.g.,* block 14 of the Standard Form (SF) 26, or block 21 of the SF-33).

(End of Alternate II)

2452.232-72 Limitation of Government's obligation.

As prescribed in 2432.705-70, use the following clause:

Limitation of Government's Obligation (DEC 2012)

(a) Funds are not available for full funding of all contract line items under this contract. The incrementally funded line items and their anticipated funding schedule are as follows:

Contract line item number	Total price	Amount of current funding	Anticipated date(s) of future funding

The contracting officer will revise this table as funds are allotted to the contract.

(b) For the incrementally funded line item(s) in paragraph (a) of this clause, the Contractor agrees to perform up to the point at which the total amount payable by the Government, including reimbursement in the event of termination of those item(s) for the Government's convenience, approximates the total amount currently allotted to the contract for these contract line items. The Contractor is not authorized to continue work on the incrementally funded line item(s) beyond that point. The Government will in no event be obligated to reimburse the Contractor in excess of the amount allotted to the contract for the incrementally funded line item(s) regardless of anything to the contrary in the clause entitled "*Termination for Convenience of the Government.*" As used in this clause, the total amount payable by the Government in the event of termination for convenience of applicable line item(s) includes costs, profit, and estimated termination settlement costs for those line item(s).

(c) Notwithstanding the dates specified in the allotment schedule in paragraph (a) of this clause, the Contractor will notify the Contracting Officer in writing at least ____ [*90 days unless the Contracting Officer inserts a different number*] days prior to the date when, in the Contractor's best judgment, the work will reach the point at which the total amount payable by the Government, including any cost for termination for convenience, will approximate 85 percent of the total amount then allotted to the contract for performance of the applicable line item(s). This notification will state: the estimated date when that point will be reached; and an estimate of the amount of additional funding, if any, needed to continue performance of the applicable line items up to the next scheduled date for allotment of funds identified in paragraph (a) of this clause (or to another mutually agreed-upon date). The notification will also advise the Contracting Officer of the estimated amount of additional funds that will be required for the timely performance of the line item(s) funded pursuant to this clause, for a subsequent period as may be specified in the allotment schedule in paragraph (a) of this clause or otherwise agreed to by the parties. If after such notification additional funds are not allotted by the date identified in the Contractor's notification, or by an agreed-upon date, the Contracting Officer will terminate any line item(s) for which additional funds have not been allotted, pursuant to the clause of this contract entitled "*Termination for Convenience of the Government.*"

(d) When additional funds are allotted for continued performance of the incrementally funded line item(s), the parties will agree to the period of contract performance covered by the funds. The provisions of paragraphs (b) through (d) of this clause will apply in like manner to the additional

allotted funds and agreed-upon date(s), and the contract will be modified accordingly.

(e) If the Contractor incurs additional costs or is delayed in the performance of the work under this contract solely by reason of the failure of the Government to allot additional funds in amounts sufficient for timely performance of the incrementally funded line item(s), and then additional funds are allotted, an equitable adjustment will be made in the line item price(s) or in the time of delivery, or both. Failure to agree to any such equitable adjustment hereunder shall be considered a dispute subject to the "*Disputes*" clause in this contract.

(f) The Government may allot additional funds for the performance of the incrementally-funded line item(s) at any time prior to termination.

(g) The termination provisions of this clause do not limit the rights of the Government under the clause entitled "*Default.*" The provisions of this clause are limited to the work and allotment of funds for the incrementally funded line item(s) and will no longer apply once the contract is fully funded except with regard to the rights or obligations of the parties concerning equitable adjustments negotiated under paragraphs (d) and (e) of this clause.

(h) Nothing in this clause affects the right of the Government to terminate this contract pursuant to the clause of this contract entitled "*Termination for Convenience of the Government.*"

(i) Nothing in this clause shall be construed as authorization of voluntary services whose acceptance is otherwise prohibited under 31 U.S.C. 1342.

(End of clause)

2452.232-73 Constructive acceptance period.

As prescribed in 2432.908, insert the following clause:

Constructive Acceptance Period (DEC 2012)

As authorized by FAR 32.908(c)(1), the constructive acceptance period in paragraph (a)(5)(i) of the clause at FAR 52.232-25, "Prompt Payment," under this contract is ____ [*Contracting Officer insert number*] calendar days.

(End of clause)

2452.232-74 Not to exceed limitation.

As prescribed in 2432.705(b), insert the following clause in all solicitations and contracts where the total estimated funds needed for the performance of the contract are not yet obligated.

Not To Exceed Limitation (MAR 2016)

(a) The total estimated funds needed for the performance of this contract are not yet obligated. The total obligation of funds available at this time for performance of work or deliveries is [insert amount]. The Government shall not order, nor shall the contractor be authorized or required to accept orders for, or perform work on such orders (or perform any other work on this contract) or

make deliveries that exceed the stated funding limit.

(b) When funding is available, the Government may unilaterally increase the amount obligated through contract funding modification(s) until the full contract value has been obligated. If a contract funding modification is not in place by the time the performance of the work or deliveries have reached the stated funding limit, the contractor must stop performing services and deliveries and may not start again until the contractor is notified through a contract funding modification that funds are available to continue services and deliveries.

(End of clause)

2452.233-70 Review of contracting officer protest decisions.

As prescribed in 2433.106, insert the following provision:

Review of Contracting Officer Protest Decisions (FEB 2006)

(a) In accordance with FAR 33.103 and HUDAR 2433.103, a protester may request an appeal of the Contracting Officer's decision concerning a protest initially made by the protester to the Contracting Officer. The protestor must submit a written request for an appeal to [*insert name of HCA and address*] not later than 10 days after the protestor's receipt of the Contracting Officer's decision (see FAR 33.101 for the definition of “days”).

(b) The HCA shall make an independent review of the Contracting Officer's decision and provide the protester with the HCA's decision on the appeal.

(End of provision)

2452.237-70 Key personnel.

As prescribed in 2437.110(e)(1), insert the following clause in solicitations and contracts when it is necessary for contract performance to identify the contractor's key personnel:

Key Personnel (FEB 2006)

(a) *Definition.* “Personnel” means employees of the contractor, or any subcontractor(s), affiliates, joint venture partners, or team members, and consultants engaged by any of those entities.

(b) The personnel specified below are considered to be essential to the work being performed under this contract. Prior to diverting any of the specified individuals to other projects, the contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the contractor without the written consent of the Contracting Officer. Key personnel shall perform as follows: [*List Key Personnel and/or positions, and tasks, percentage of effort, number of hours, etc., for which they are responsible, as applicable.*]

(End of clause)

2452.237-73 Conduct of work and technical guidance.

As prescribed in 2437.110(e)(2), insert the following clause in all contracts for services:

CONDUCT OF WORK AND TECHNICAL GUIDANCE (APR 2019)

(a) The Contracting Officer will provide the Contractor with the name and contact information of the Contracting Officer's Representative (COR) assigned to this contract. The COR will serve as the Contractor's liaison with the Contracting Officer with regard to the conduct of work. The Contracting Officer will notify the Contractor in writing of any change to the current COR's status or the designation of a successor COR.

(b) The COR for liaison with the Contractor as to the conduct of work is [to be inserted at time of award] or a successor designated by the Contracting Officer.

(c) The COR will provide guidance to the Contractor on the technical performance of the contract. Such guidance shall not be of a nature which:

(1) Causes the Contractor to perform work outside the statement of work or specifications of the contract;

(2) Constitutes a change as defined in FAR 52.243-1;

(3) Causes an increase or decrease in the cost of the contract;

(4) Alters the period of performance or delivery dates; or

(5) Changes any of the other express terms or conditions of the contract.

(d) The COR will issue technical guidance in writing or, if issued orally, he/she will confirm such direction in writing within five (5) calendar days after oral issuance. The COR may issue such guidance via telephone, facsimile (fax), or electronic mail.

(e) Other specific limitations [to be inserted by Contracting Officer]:

(f) The Contractor shall promptly notify the Contracting Officer whenever the Contractor believes that guidance provided by any government personnel, whether or not specifically provided pursuant to this clause, is of a nature described in paragraph (b) of this clause.

(End of clause)

2452.237-75 Access to HUD facilities.

As prescribed in 2437.110(e)(3), insert the following clause in solicitations and contracts:

ACCESS TO HUD FACILITIES (APR 2019)

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

“Access” means physical entry into and, to the extent authorized, mobility within a Government

facility.

“Contract” means any authorized contractual instrument, including, but not restricted to, task orders, purchase orders, Blanket Purchase Agreement calls, etc.

“Contractor employee” means an employee of the prime contractor or of any subcontractor, affiliate, partner, joint venture, or team members with which the Contractor is associated. It also includes consultants engaged by any of those entities.

“Facility” and “Government facility” mean buildings, including areas within buildings that are owned, leased, shared, occupied, or otherwise controlled by the Federal Government.

“NACI” means National Agency Check with Inquiries, the minimum background investigation prescribed by the U.S. Office of Personnel Management.

“PIV Card” means the Personal Identity Verification (PIV) Card, the Federal Government-issued identification credential (identification badge).

(b) *General.* The performance of this contract requires contractor employees to have access to HUD facilities. All such employees who do not already possess a current PIV Card acceptable to HUD shall be required to provide personal background information, undergo a background investigation (NACI or other OPM-required or approved investigation), including an FBI National Criminal History Fingerprint Check, and obtain a PIV Card prior to being permitted access to any such facility in the performance of this contract.

Unescorted access to any such facility in performance of this contract. HUD may accept a PIV Card issued by another Federal Government agency but shall not be required to do so. No contractor employee will be permitted unescorted access to a HUD facility without a proper PIV Card.

(c) *Background information.*

(1) For each contractor employee subject to the requirements of this clause and not in possession of a current PIV Card acceptable to HUD, the Contractor shall submit the following properly completed forms: Electronic Standard Form (SF) 85, “Questionnaire for Non-Sensitive Positions via e-QIP,” completed USAccess enrollment (electronic fingerprinting) and Optional Form (OF) 306 (Items 1 through 17). Forms SF-85 and OF-306 are available from OPM's website, *http://www.opm.gov*. The electronic questionnaire is available on OPM's e-QIP site, *https://www.opm.gov/investigations/e-qip-application/*. The COR will provide all other forms that are not obtainable via the internet.

(2) The Contractor shall deliver the forms and information required in paragraph (c)(1) of this clause to the COR as secure as possible.

(3) The information provided in accordance with paragraph (c)(1) of this clause will be used to perform a background investigation to determine the suitability of the contractor employees to have access to Government facilities. After completion of the investigation, the COR will notify the Contractor in writing when any contractor employee is determined to be unsuitable for access to a Government facility. The Contractor shall immediately remove such employee(s) from work on this contract that requires physical presence in a Government facility.

(4) Affected contractor employees who have had a Federal background investigation without a subsequent break in Federal employment or Federal contract service exceeding 2 years may be exempt from the investigation requirements of this clause subject to verification of the previous

investigation. For each such employee, the Contractor shall submit the following information in lieu of the forms and information listed in paragraph (c)(1) of this clause: completed PIV and Pre-Security Form.

(d) *PIV Cards.*

(1) HUD will issue a PIV Card to each contractor employee who is to be given access to HUD facilities and who does not already possess a PIV Card acceptable to HUD (see paragraph (b) of this clause). HUD will not issue the PIV Card until the contractor employee has

(1) successfully cleared the FBI National Criminal History Fingerprint Check, (2) HUD has initiated the background investigation for the contractor employee, and (3) a Security Approval Notice from HUD PSD via *PSDContractorIn-box@hud.gov* has been received. Initiation is defined to mean that all background information required in paragraph (c)

(1) of this clause has been delivered to HUD. The employee may not be given access prior to those three events. HUD may issue a PIV Card and grant access pending the completion of the background investigation. HUD will revoke the PIV Card and the employee's access if the background investigation process for the employee, including adjudication of the investigation results, has not been completed within 6 months after the issuance of the PIV Card.

(2) PIV Cards shall identify individuals as contractor employees. Contractor employees shall display their PIV Cards on their persons at all times while working in a HUD facility, and shall present cards for inspection upon request by HUD officials or HUD security personnel.

(3) The Contractor shall be responsible for all PIV Cards issued to the Contractor's employees and shall immediately notify the COR if any PIV Card(s) cannot be accounted for. The Contractor shall promptly return PIV Cards to HUD, as required by the FAR clause at 52.204-9. The Contractor shall notify the COR immediately whenever any contractor employee no longer has a need for his/her HUD-issued PIV Card (*e.g.,* employee terminates employment with the contractor, employee's duties no longer require access to HUD facilities). The COR will instruct the Contractor on how to return the PIV Card, and upon expiration of this contract, the COR will instruct the Contractor on how to return all HUD-issued PIV Cards not previously returned. Unless otherwise directed by the Contracting Officer, the Contractor shall not return PIV Cards to any person other than the COR.

(4) The Contractor shall submit a report to the Contracting Officer and COR no later than five (5) calendar days after the end of each calendar quarter that provides the status of each employee who is required to work in a HUD facility during the performance of the contract. At a minimum, the report shall identify the contractor and the contract number, and list for each employee the following information:

(i) Employee name;

(ii) Name of HUD facility where employee works;

(iii) Date background check submitted;

(iv) Date PIV Card issued;

(v) PIV card number;

(vi) Date employee no longer has need of the HUD PIV Card;

(vii) Date Contracting Officer and COR were notified that employee no longer had need of the HUD PIV Card; and

(viii) Date PIV Card was returned to COR.

(e) *Control of access.* HUD shall have, and exercise, complete control over granting, denying, withholding, and terminating access of contractor employees to HUD facilities. The COR will notify the Contractor immediately when HUD has determined that an employee is unsuitable or unfit to be permitted access to a HUD facility. The Contractor shall immediately notify such employee that he/she no longer has access to any HUD facility, remove the employee from any such facility that he/she may be in, and provide a suitable replacement in accordance with the requirements of this clause.

(f) *Access to HUD information systems.* If this contract requires contractor employees to have access to HUD information system(s), application(s), or information contained in such systems, the Contractor shall comply with all requirements of HUDAR clause 2452.239-70, Access to HUD Systems, including providing for each affected employee any additional background investigation forms prescribed in that clause.

(g) *Subcontracts.* The Contractor shall incorporate this clause in all subcontracts where the requirements specified in paragraph (b) of this section are applicable to performance of the subcontract.

(End of clause)

2452.237-77 Temporary closure of HUD facilities.

As prescribed in 2437.110(e)(4), insert the following clause:

Temporary Closure of HUD Facilities (MAR 2016)

(a)

(1) The Department of Housing and Urban Development observes the following days as holidays -

New Year's Day

Martin Luther King's Birthday

Washington's Birthday

Memorial Day

Independence Day

Labor Day

Columbus Day

Veterans Day

Thanksgiving Day

Christmas Day

Any other day designated by Federal law, Executive Order or Presidential Proclamation.

(2) When any holiday specified in (a)(1) falls on a Saturday, the preceding Friday shall be observed. When any such holiday falls on a Sunday, the following Monday shall be observed. Observances of such days by Government personnel shall not be cause for additional period of performance or entitlement to compensation except as set forth in the contract. If the contractor's personnel work on a holiday, no form of holiday or other premium compensation will be reimbursed either as a direct or indirect cost, unless authorized pursuant to an overtime clause elsewhere in this contract.

(b)

(1) HUD may close a HUD facility for all or a portion of a business day as a result of -

(A) Granting administrative leave to non-essential HUD employees (e.g., unanticipated holiday);

(B) Inclement weather;

(C) Failure of Congress to appropriate operational funds;

(D) Or any other reason.

(2) In such cases, contractor personnel not classified as essential, i.e., not performing critical round-the-clock services or tasks, who are not already on duty at the facility shall not report to the facility. Such contractor personnel already present shall be dismissed and shall leave the facility.

(3) The contractor agrees to continue to provide sufficient personnel to perform round-the-clock requirements of critical tasks already in operation or scheduled for performance during the period in which HUD employees are dismissed, and shall be guided by any specific instructions of the Contracting Officer or his/her duly authorized representative.

(c) When contractor personnel services are not required or provided due to closure of a HUD facility as described in this clause, the contractor shall be compensated as follows -

(1) For fixed-price contracts, deductions in the contractor's price will be computed as follows -

(A) The deduction rate in dollars per day will be equal to the per month contract price divided by the number of business days in each month.

(B) The deduction rate in dollars per day will be multiplied by the number of days services are not required or provided.

If services are provided for portions of days, appropriate adjustment will be made by the Contracting Officer to ensure that the contractor is compensated for services provided.

(2) For cost-reimbursement, time-and-materials and labor-hour type contracts, HUD shall not reimburse as direct costs, the costs of salaries or wages of contractor personnel for the period during which such personnel are dismissed from, or do not have access to, the facility.

(End of clause)

2452.237-79 Post award conference.

As prescribed in 2437.110(e)(5), insert the following clause in all contracts for services:

Post Award Conference (MAR 2016)

The Contractor shall be required to attend a post-award conference on DATE_____ to be held at ADDRESS_____, unless other arrangements are made. All Contractors must have a valid ID for security clearance into the building.

(End of clause)

Alternate I Post Award Conference (MAR 2016) If the conference will be conducted via telephone or video conferencing, substitute the following for the first and second sentences:

The conference will be conducted via [*telephone, video conferencing*]. The Contracting Officer or designee will provide the contractor with the date, time and contact information for the conference.

(End of Alternate I)

2452.237-81 Labor categories, unit prices per hour and payment.

As prescribed in 2437.110(e)(6), insert the following clause in all indefinite quantity and requirements solicitations and contracts when level of effort task orders will be issued.

Labor Categories, Unit Prices Per Hour and Payment (MAR 2016)

The contractor shall provide the following types of labor at the corresponding unit price per hour in accordance with the terms of this contract:

The unit price per hour is inclusive of the hourly wage plus any applicable labor overhead, General and Administrative (G&A) expenses, and profit. Payment shall be made to the contractor upon delivery to, and acceptance by, the Government office requesting services. The total amounts billed shall be derived by multiplying the actual number of hours worked per category by the corresponding price per hour.

(End of clause)

2452.237-82 Access to controlled unclassified information (CUI).

As prescribed in HUDAR 2437.110(e)(7), the Contracting Officer shall insert provision 2452.237-82 in Section L of solicitations when controlled unclassified information (CUI), as defined in the

provision, will be provided to potential offerors for the purpose of preparing offers.

ACCESS TO CONTROLLED UNCLASSIFIED INFORMATION (CUI) (APR 2019)

(a) For the sole purpose of preparing an offer in response to this solicitation, HUD may make certain controlled unclassified information (CUI) available to prospective offerors.

(b) CUI:

(1) Is any information which the loss, misuse, or modification of, or unauthorized access to, could adversely affect the national interest or the conduct of Federal programs or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy;

(2) Is not available to the general public;

(3) May include:

(i) Government acquisition-sensitive information, including source selection information as defined at section 2.101 of the Federal Acquisition Regulation (48 CFR chapter 1); contractor bid or proposal information;

(ii) Information contained in individual contracts that is not public information and such contract information that is contained in Government databases; proprietary economic, financial, or business information (*e.g.,* salary information) provided to the Government by other parties (*e.g.,* other contractors) or belonging to HUD;

(iii) Personally identifiable information (PII) that includes, but is not limited to, Social Security numbers, names, dates of birth, places of birth, parents' names, credit card numbers, applications for entitlements, and information relating to a person's private financial, income, employment, and tax records; and

(iv) Other information that the HUD Contracting Officer (CO) or other authorized HUD employee explicitly identifies as CUI.

(4) May exist in various physical media (*e.g.,* paper, electronic file, audio, or video disc), may be transmitted orally, developed under or pre-exist any related contract, and may be in its original form, or a derivative form (*i.e.,* where the information has been included in contractor-generated work, or where it is discernible from materials incorporating or based upon such information).

(c) As a prior condition to being provided access to any CUI, each prospective offeror shall execute the following nondisclosure agreements and deliver the executed agreements to the Contracting Officer:

(1) Nondisclosure Agreement between the Department of Housing and Urban Development ("HUD") and Offeror Granting Conditional Access to Controlled Unclassified Information ("Offeror Agreement") (see Attachment J-____[*contracting officer insert attachment number*]). This agreement must be executed by an officer or other representative of the company authorized to bind the firm to the commitments made by the agreement and the individual nondisclosure agreements executed by those offeror employees or representatives to whom the sensitive information will be provided.

(2) Nondisclosure Agreement between the Department of Housing and Urban Development and

Offeror Employee or Other External Party Granting Conditional Access to Controlled Unclassified Information ("Nondisclosure Agreement") (see Attachment J-__ [*contracting officer insert attachment number*]). A separate agreement must be executed by each person to whom access to CUI will be provided, regardless of whether HUD or the Offeror provides such access. The offeror is responsible for ensuring that each individual who is provided access to CUI executes a nondisclosure agreement.

(3) Nondisclosure agreements must be submitted to the CO and COR within ten (10) days after contract award or as otherwise specified by the CO.

(d) CUI will be provided to prospective offerors as follows: [*describe how information will be provided including: The party responsible for providing access to information, the procedure for obtaining access, and the format in which the information is contained; e.g., "by the contracting officer on compact disk (CD) at the pre-proposal meeting*].

(e) The offeror's failure to comply with any part of this provision or with the terms of the required nondisclosure agreements may disqualify the offeror for consideration of any contract awarded under this solicitation.

(End of Provision)

2452.237-83 Access to controlled unclassified information (CUI).

As prescribed in HUDAR 2437.110(e)(8), the Contracting Officer shall insert clause 2452.237-83 in Section H of solicitations and contracts under which contractor and/or subcontractor employees will be granted access to controlled unclassified information as defined in the clause.

ACCESS TO CONTROLLED UNCLASSIFIED INFORMATION (CUI) (APR 2019)

(a) For the sole purpose of performing work required under this contract, the contracting officer may grant the contractor - including contractor employees, subcontractors, and subcontractor employees - access to controlled unclassified information (CUI).

(b) CUI:

(1) Is any information which the loss, misuse, or modification of, or unauthorized access to, could adversely affect the national interest or the conduct of Federal programs or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy;

(2) Is not available to the general public;

(3) May include:

(i) Government acquisition-sensitive information, including source selection information as defined at section 2.101 of the Federal Acquisition Regulation (48 CFR chapter 1); contractor bid or proposal information;

(ii) Information contained in individual contracts that is not public information and such contract information that is contained in Government databases; proprietary economic, financial, or business information (*e.g.,* salary information) provided to the Government by other parties (*e.g.,* other contractors) or belonging to HUD;

(iii) Personally identifiable information (PII) that includes, but is not limited to social security numbers, names, dates of birth, places of birth, parents' names, credit card numbers, applications for entitlements, and information relating to a person's private financial, income, employment, and tax records; and

(iv) Other information that the HUD contracting officer or other authorized HUD employee explicitly identifies as CUI; and

(4) May exist in various physical media (*e.g.,* paper, electronic file, audio or video disc) or be transmitted orally, may be developed under or pre-exist any related contract, and may be in its original form or a derivative form (*i.e.,* where the information has been included in contractor-generated work, or where it is discernible from materials incorporating or based upon such information).

(c) As a prior condition to being provided access to any CUI, each contractor or subcontractor employee shall execute the nondisclosure agreement in attachment J.__ [*contracting officer insert attachment number*] to this contract and deliver the executed agreement to the contracting officer.

(d) The Contractor shall include this clause in all subcontracts.

(e) The contractor's failure to comply with any part of this clause or with the terms of the required nondisclosure agreements may result in the termination of this contract for default.

(End of Clause)

2452.239-70 Access to HUD systems.

As prescribed in 2439.107(a), insert the following clause:

ACCESS TO HUD SYSTEMS (APR 2019)

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

Access means the ability to obtain, view, read, modify, delete, and/or otherwise make use of information resources.

Application means the use of information resources (information and information technology) to satisfy a specific set of user requirements (see Office of Management and Budget (OMB) Circular A-130).

Contract means any authorized contractual instrument, including, but not restricted to, task orders, purchase orders, Blanket Purchase Agreement calls, etc.

Contractor employee means an employee of the prime contractor or of any subcontractor, affiliate, partner, joint venture, or team members with which the Contractor is associated. It also includes consultants engaged by any of those entities.

Mission-critical system means an information technology or telecommunications system used or operated by HUD or by a HUD contractor, or organization on behalf of HUD, that processes any information, the loss, misuse, disclosure, or unauthorized access to, or modification of which would have a debilitating impact on the mission of the agency.

NACI means a National Agency Check with Inquiries, the minimum background investigation prescribed by the Office of Personnel Management (OPM).

PIV Card means the Personal Identity Verification (PIV) Card, the Federal Government-issued identification credential (*i.e.,* identification badge).

Sensitive information means any information of which the loss, misuse, or unauthorized access to, or modification of, could adversely affect the national interest, the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

System means an interconnected set of information resources under the same direct management control, which shares common functionality. A system normally includes hardware, software, information, data, applications, communications, and people (see OMB Circular A-130). System includes any system owned by HUD or owned and operated on HUD's behalf by another party.

(b) *General.*

(1) The performance of this contract requires contractor employees to have access to a HUD system or systems. All such employees who do not already possess a current PIV Card acceptable to HUD shall be required to provide personal background information, undergo a background investigation (NACI or other OPM-required or approved investigation), including an FBI National Criminal History Fingerprint Check, and obtain a PIV Card prior to being permitted access to any such system in performance of this contract. HUD may accept a PIV Card issued by another Federal Government agency but shall not be required to do so. No contractor employee will be permitted access to any HUD system without a PIV Card.

(2) All contractor employees who require access to mission-critical systems or sensitive information contained within a HUD system or application(s) are required to have a more extensive background investigation. The investigation shall be commensurate with the risk and security controls involved in managing, using, or operating the system or applications(s).

(c) *Citizenship-related requirements.* Each affected contractor employee as described in paragraph (b) of this clause shall be:

(1) A United States (U.S.) citizen; or,

(2) A national of the United States (see 8 U.S.C. 1408); or,

(3) An alien lawfully admitted into, and lawfully permitted to be employed in the United States, provided that for any such individual, the Government is able to obtain sufficient background information to complete the investigation as required by this clause. Failure on the part of the contractor to provide sufficient information to perform a required investigation or the inability of the Government to verify information provided for affected contractor employees will result in denial of their access.

(d) *Background investigation process.*

(1) The Contracting Officer's Representative (COR) shall notify the Contractor of those contractor employee positions requiring background investigations.

(i) For each contractor employee requiring access to HUD information systems, the Contractor shall submit the following properly completed forms: Electronic Standard Form (SF) 85, “Questionnaire for Non-sensitive Positions” via e-QIP, completed USAccess enrollment (electronic fingerprinting) and Optional Form (OF) 306 (Items 1 through 17). The SF-85 and OF-306 are available from the OPM website, *http://www.opm.gov*. The electronic questionnaire is available on OPM's e-QIP site, *https://www.opm.gov/investigations/e-qip-application/*.

(ii) For each contractor employee requiring access to mission-critical systems and/or sensitive information contained within a HUD system and/or application(s), the Contractor shall submit the following properly completed forms: Electronic SF-85P, “Questionnaire for Public Trust Positions” via e-QIP;” Electronic Standard Form (SF) 85, “Questionnaire for Non-sensitive Positions via e-QIP,” completed USAccess enrollment (electronic fingerprinting) and Optional Form (OF) 306 (Items 1 through 17). The SF-85 and OF-306 are available from the OPM website, *http://www.opm.gov*. The Electronic questionnaire is available on OPM's e-QIP site, *https://www.opm.gov/investigations/e-qip-application/*; and a Fair Credit Reporting Act form (authorization for the credit-check portion of the investigation). Contractor employees shall complete the Medical Release behind the SF-85P.

(iii) The electronic questionnaires (e-QIP) SF-85, 85P, and OF-306 are available from OPM's websites *https://www.opm.gov/investigations/e-qip-application/* and *http://www.opm.gov*. The COR will provide all other forms that are not obtainable via the internet.

(2) The Contractor shall deliver the forms and information required in paragraph (d)(1) of this clause to the COR as securely as possible.

(3) Affected contractor employees who have had a Federal background investigation without a subsequent break in Federal employment or Federal contract service exceeding 2 years may be exempt from the investigation requirements of this clause, subject to verification of the previous investigation. For each such employee, the Contractor shall submit the following information in lieu of the forms and information listed in paragraph (d)(1) of this clause: PIV and Pre-Security Form.

(4) The investigation process shall consist of a range of personal background inquiries and contacts (written and personal) and verification of the information provided on the investigative forms described in paragraph (d)(1) of this clause.

(5) Upon completion of the investigation process, the COR will notify the Contractor if any contractor employee is determined to be unsuitable to have access to the system(s), application(s), or information. Such an employee may not be given access to those resources. If any such employee has already been given access pending the results of the background investigation, the Contractor shall ensure that the employee's access is revoked immediately upon receipt of the COR's notification.

(6) Failure of the COR to notify the Contractor (see paragraph (d)(1) of this clause) of any employee who should be subject to the requirements of this clause and is known, or should reasonably be known, by the Contractor to be subject to the requirements of this clause, shall not excuse the Contractor from making such employee(s) known to the COR. Any such employee who is identified and is working under the contract, without having had the appropriate background investigation or

furnished the required forms for the investigation, shall cease to perform such work immediately and shall not be given access to the system(s)/application(s) described in paragraph (b) of this clause until the Contractor has provided the investigative forms to the COR for the employee, as required in paragraph (d)(1) of this clause.

(7) The Contractor shall notify the COR in writing whenever a contractor employee for whom a background investigation package was required and submitted to HUD, or for whom a background investigation was completed, terminates employment with the Contractor, or otherwise is no longer performing work under this contract that requires access to the system(s), application(s), or information. The Contractor shall provide a copy of the written notice to the Contracting Officer.

(e) *PIV Cards.*

(1) HUD will issue a PIV Card to each contractor employee who is to be given access to HUD systems and does not already possess a PIV Card acceptable to HUD (see paragraph (b) of this clause). HUD will not issue the PIV Card until the contractor employee has

(1) successfully cleared an FBI National Criminal History Fingerprint Check, (2) HUD has initiated the background investigation for the contractor employee, and (3) a Security Approval Notice from HUD PSD via *PSDContractorIn-box@hud.gov* has been received. Initiation is defined to mean that all background information required in paragraph (d)

(1) of this clause has been delivered to HUD. The employee may not be given access prior to those three events. HUD may issue a PIV Card and grant access pending the completion of the background investigation. HUD will revoke the PIV Card and the employee's access if the background investigation process for the employee, including adjudication of the investigation results, has not been completed within 6 months after the issuance of the PIV Card.

(2) PIV Cards shall identify individuals as contractor employees. Contractor employees shall display their PIV Cards on their persons at all times while working in a HUD facility, and shall present cards for inspection upon request by HUD officials or HUD security personnel.

(3) The Contractor shall be responsible for all PIV Cards issued to the Contractor's employees and shall immediately notify the COR if any PIV Card(s) cannot be accounted for. The Contractor shall promptly return PIV Cards to HUD as required by the FAR clause at 52.204-9. The Contractor shall notify the COR immediately whenever any contractor employee no longer has a need for his/her HUD-issued PIV Card (*e.g.,* the employee terminates employment with the Contractor, the employee's duties no longer require access to HUD systems). The COR will instruct the Contractor as to how to return the PIV Card. Upon expiration of this contract, the COR will instruct the Contractor as to how to return all HUD-issued PIV Cards not previously returned. Unless otherwise directed by the Contracting Officer, the Contractor shall not return PIV Cards to any person other than the COR.

(4) The Contractor shall submit a report to the Contracting Officer and COR no later than five (5) calendar days after the end of each calendar quarter that provides the status of each employee who is required to work in a HUD facility during the performance of the contract. At a minimum, the report shall identify the Contractor and the contract number, and list for each employee the following information:

(i) Employee name;

(ii) Name of HUD facility where employee works;

(iii) Date background check submitted;

(iv) Date PIV Card issued;

(v) PIV card number;

(vi) Date employee no longer has need of the HUD PIV Card;

(vii) Date Contracting Officer and COR were notified that employee no longer has need of the HUD PIV Card; and

(viii) Date PIV Card returned to COR.

(f) *Control of access.* HUD shall have and exercise full and complete control over granting, denying, withholding, and terminating access of contractor employees to HUD systems. The COR will notify the Contractor immediately when HUD has determined that an employee is unsuitable or unfit to be permitted access to a HUD system. The Contractor shall immediately notify such employee that he/she no longer has access to any HUD system, physically retrieve the employee's PIV Card from the employee, and provide a suitable replacement employee in accordance with the requirements of this clause.

(g) *Incident response notification.* An incident is defined as an event, either accidental or deliberate, that results in unauthorized access, loss, disclosure, modification, or destruction of information technology systems, applications, or data. The Contractor shall immediately notify the COR and the Contracting Officer of any known or suspected incident, or any unauthorized disclosure of the information contained in the system(s) to which the Contractor has access.

(h) *Nondisclosure of information.*

(1) Neither the Contractor nor any of its employees shall divulge or release data or information developed or obtained during performance of this contract, except to authorized Government personnel with an established need to know, or upon written approval of the Contracting Officer. Information contained in all source documents and other media provided by HUD is the sole property of HUD.

(2) The Contractor shall require that all employees who may have access to the system(s)/applications(s) identified in paragraph (b) of this clause sign a pledge of nondisclosure of information. The employees shall sign these pledges before they are permitted to perform work under this contract. The Contractor shall maintain the signed pledges for a period of 3 years after final payment under this contract. The Contractor shall provide a copy of these pledges to the COR.

(i) *Security procedures.* (1) The Contractor shall comply with applicable Federal and HUD statutes, regulations, policies, and procedures governing the security of the system(s) to which the Contractor's employees have access including, but not limited to:

(i) The Federal Information Security Management Act (FISMA);

(ii) Office of Management and Budget (OMB) Circular A-130, Management of Federal Information Resources, Appendix III, Security of Federal Automated Information Resources;

(iii) HUD Handbook 2400.25, Information Technology Security Policy;

(iv) HUD Handbook 732.3, Personnel Security/Suitability;

(v) Federal Information Processing Standards 201 (FIPS 201), Sections 2.1 and 2.2;

(vi) Homeland Security Presidential Directive 12 (HSPD-12); and

(vii) OMB Memorandum M-05-24, Implementing Guidance for HSPD-12.

The HUD Handbooks are available online at: *http://www.hud.gov/offices/adm/hudclips/* or from the COR.

(2) The Contractor shall develop and maintain a compliance matrix that lists each requirement set forth in paragraphs (b), (c), (d), (e), (f), (g), (h), (i)(1), and (m) of this clause with specific actions taken, and/or procedures implemented, to satisfy each requirement. The Contractor shall identify an accountable person for each requirement, the date upon which actions/procedures were initiated/completed, and certify that information contained in this compliance matrix is correct. The Contractor shall ensure that information in this compliance matrix is complete, accurate, and up-to-date at all times for the duration of this contract. Upon request, the Contractor shall provide copies of the current matrix to HUD.

(3) The Contractor shall ensure that its employees, in performance of the contract, receive annual training (or once if the contract is for less than one year) in HUD information technology security policies, procedures, computer ethics, and best practices in accordance with HUD Handbook 2400.25.

(j) *Access to Contractor's systems.* The Contractor shall afford HUD, including the Office of Inspector General, access to the Contractor's facilities, installations, operations, documentation (including the compliance matrix required under paragraph (i)(2) of this clause), databases, and personnel used in performance of the contract. Access shall be provided to the extent required to carry out, but not limited to, any information security program activities, investigation, and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of HUD data and systems, or to the function of information systems operated on behalf of HUD, and to preserve evidence of computer crime.

(k) *Contractor compliance with this clause.* Failure on the part of the Contractor to comply with the terms of this clause may result in termination of this contract for default.

(l) *Physical access to Federal Government facilities.* The Contractor and any subcontractor(s) shall also comply with the requirements of HUDAR clause 2452.237-75 when the Contractor's or subcontractor's employees will perform any work under this contract on site in a HUD or other Federal Government facility.

(m) *Subcontracts.* The Contractor shall incorporate this clause in all subcontracts where the requirements specified in paragraph (b) of this clause are applicable to performance of the subcontract.

(End of clause)

2452.242-70 Indirect costs.

As prescribed in 2442.705-70, insert the following clause in cost-reimbursement type solicitations

and contracts when it is determined that the Contractor will be compensated for negotiated or provisional indirect cost rates pending establishment of final indirect cost rates.

Indirect Costs (APR 1984)

(a) Pursuant to the provisions of the clause of this contract entitled, “Allowable Cost and Payment” the rates listed below are established. If the column entitled, “Ceiling Rate” has rates listed, the ceiling applies for those rates only. If there are no ceiling rates listed, ceilings do not apply to this contract and the provisions of paragraph (b) of this clause are not applicable.

Period	Category	Provisional rate	Ceiling rate	Base
Effective date until amended:				

(b) For the term of this contract, the final indirect rates shall not exceed the ceiling rates listed above, if any. However, in the event the indirect rates developed by the cognizant audit activity on the basis of actual allowable costs are less than the ceiling rates agreed to herein, then the rates established by such cognizant audits shall apply (downward adjustment only). The Government shall not be obligated to pay any additional amounts on indirect rates above the ceiling rates set forth for the applicable period

(End of clause)

2452.242-71 Contract management system.

As prescribed in 2442.1107, insert the following clause:

CONTRACT MANAGEMENT SYSTEM (APR 2019)

(a) The Contractor shall use contract management baseline planning and progress reporting as described herein.

(b) The contract management system shall consist of two parts:

(1) *Baseline plan.* The baseline plan shall consist of:

(i) A narrative portion that:

(A) Identifies each task and significant activity required for completing the contract work, critical

path activities, task dependencies, task milestones, and related deliverables;

(B) Describes the contract schedule, including the period of time needed to accomplish each task and activity (see paragraph (b)(1)(ii)(B) of this clause);

(C) Describes staff (e.g., hours per individual), financial, and other resources allocated to each task and significant activity; and

(D) Provides the rationale for contract work organization and resource allocation.

(ii) A graphic portion showing:

(A) Cumulative planned or budgeted costs of work scheduled for each reporting period over the life of the contract (i.e., the budgeted baseline); and

(B) The planned start and completion dates of all planned and budgeted tasks and activities.

(2) *Progress reports.* Progress reports shall consist of:

(i) A narrative portion that:

(A) Provides a brief, concise summary of technical progress made and the costs incurred for each task during the reporting period; and

(B) Identifies problems, or potential problems that will affect the contract's cost or schedule, the causes of the problems, and the Contractor's proposed corrective actions.

(ii) A graphic portion showing:

(A) The original time-phased, budgeted baseline;

(B) The schedule status and degree of completion of the tasks, activities, and deliverables shown in the baseline plan for the reporting period, including actual start and completion dates for all tasks and activities in the baseline plan; and

(C) The costs incurred during the reporting period, the current total amount of costs incurred through the end date of the reporting period for budgeted work, and the projected costs required to complete the work under the contract.

(3) *Reporting frequency.* The reports described in paragraph (b)(2) of this clause shall be submitted [insert period, *e.g.,* monthly, quarterly, or schedule based on when payments will be made under the contract].

(c) The formats, forms, and/or software to be used for the contract management system under this contract shall be [Contracting Officer insert appropriate language, such as “as prescribed in the schedule;” “a format, forms and/or software designated by the COR” or, “the Contractor's own format, forms and/or software, subject to the approval of the COR.”].

(d) When this clause applies to individual task orders under the contract, the word “contract” shall mean “task order.”

(End of clause)

Alternate I (FEB 2006). As prescribed in 2442.1107, replace paragraph (b) with the following:

(b) The contract management system shall consist of two parts:

(1) *Baseline plan.* The baseline plan shall consist of:

(i) A narrative portion that:

(A) Identifies each task and significant activity required for completing the contract work, critical path activities, task dependencies, task milestones, and related deliverables;

(B) Describes the contract work schedule, including the period of time needed to accomplish each task and activity (see paragraph (ii) of this section below);

(C) Describes key personnel allocated to each task and significant activity; and,

(D) Provides the rationale for contract work organization.

(ii) A graphic portion showing the planned start and completion dates of all planned tasks and activities.

(2) *Progress reports.* Progress reports shall consist of:

(i) A narrative portion that:

(A) Provides a brief, concise summary of technical progress made for each task during the reporting period; and

(B) Identifies problems, or potential problems, that will affect the contract's cost or schedule, their causes, and the contractor's proposed corrective actions.

(ii) A graphic portion showing the schedule status and degree of completion of the tasks, activities, and deliverables shown in the baseline plan for the reporting period, including actual start and completion dates for all tasks and activities in the baseline plan.

(3) *Reporting frequency.* The reports described in (b)(2) shall be submitted [*insert period, e.g., monthly, quarterly, or schedule*].

(End of clause)

2452.244-70 Consent to subcontract.

As prescribed in HUDAR Section 2444.204(a), insert the following clause in contracts and task orders with an estimated value exceeding $10,000,000.

Consent to Subcontract (Mar 2016)

(a) Due to the substantive nature of subcontracting that may be necessary during performance of this contract, the Contracting Officer has determined that a consent for individual subcontracts is required to adequately protect the Government. Consent is required for -

(1) Cost-reimbursement, time-and-materials, or labor-hour subcontracts, or combination of such, in excess of $150,000 per year to a single subcontractor or consultant;

(2) Fixed price subcontracts in excess of 25% of the annual contract value to a single subcontractor or consultant.

(b) If subcontracts meeting the above parameters were not provided during the negotiation of the original contract award, the Contractor shall obtain post award consent and provide signed copies of the subcontract agreements within 10 days of consent.

(c) The Contractor shall provide the Contracting Officer with 30 days advance notification prior to changing subcontractors or existing subcontracting agreements, unless precluded due to circumstances beyond the control of the contractor. If advance notification is not feasible, the Contractor shall provide notification to the Contracting Officer no later than 10 days after the Contractor identifies the need to replace a subcontractor. The notification shall include a copy of the proposed new subcontracting agreement. Upon consent and finalization of the final subcontract agreement, the Contractor shall provide a copy of the signed agreement to the Contracting Officer.

(d) The Contracting Officer's consent to a subcontract does not constitute a determination of the acceptability of the subcontract terms or price, or of the allowability of costs.

(e) If not required elsewhere in the contract, no more than 30 calendar days after award, the Contractor shall provide a separate continuity of services plan to the Contracting Officer that will ensure services performed by subcontractors that cost more than 25% of the cost/price of the contract will continue uninterrupted in the event of performance problems or default by the subcontractor.

(End of clause)

2452.246-70 Inspection and acceptance.

As prescribed in 2446.502-70, insert the following clause in all solicitations and contracts:

INSPECTION AND ACCEPTANCE (APR 2019)

Inspection and acceptance of all work required under this contract shall be performed by the Contracting Officer's Representative (COR) or other individual as designated by the Contracting Officer or COR.

(End of clause)

2452.251-70 Contractor employee travel.

As prescribed in 2451.7001, insert the following clause in all cost-reimbursement solicitations and contracts involving travel:

Contractor Employee Travel (OCT 1999)

(a) To the maximum extent practical, the Contractor shall make use of travel discounts which are available to Federal employees while traveling in the conduct of official Government business. Such discounts may include, but are not limited to, lodging and rental car rates.

(b) The Contractor shall be responsible for obtaining and/or providing to his/her employees written evidence of their status with regard to their performance of Government contract work needed to obtain such discounts.

(End of clause)