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

- (c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.
- (d) The Contractor shall provide written notification to the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, within 10 working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the--
 - (1) Name, address, and telephone number of the subcontractor;
 - (2) Employer's identification number of the subcontractor;
 - (3) Estimated dollar amount of the subcontract;
 - (4) Estimated starting and completion dates of the subcontract; and
 - (5) Geographical area in which the subcontract is to be performed.
- (e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is

(End of Provision)

2.4 52.222-33 NOTICE OF REQUIREMENT FOR PROJECT LABOR AGREEMENT (MAY 2010)

(a) Definitions. "Labor organization" and "project labor agreement," as used in this provision, are defined in the clause of this solicitation entitled Project Labor Agreement.

- (b) Consistent with applicable law, the offeror shall negotiate a project labor agreement with one or more labor organizations for the term of the resulting construction contract.
- (c) Consistent with applicable law, the project labor agreement reached pursuant to this provision shall--
- (1) Bind the offeror and all subcontractors engaged in construction on the construction project to comply with the project labor agreement;
- (2) Allow the offeror and all subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;
 - (3) Contain guarantees against strikes, lockouts, and similar job disruptions;
- (4) Set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement;
- (5) Provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and
 - (6) Fully conform to all statutes, regulations, Executive orders, and agency requirements.
- (d) Any project labor agreement reached pursuant to this provision does not change the terms of this contract or provide for any price adjustment by the Government.
- (e) The offeror shall submit to the Contracting Officer a copy of the project labor agreement with its offer.

(End of Provision)

2.5 52.225-12 NOTICE OF BUY AMERICAN ACT REQUIREMENT --CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (FEB 2009)

- (a) Definitions. "Commercially available off-the-shelf (COTS) item," "construction material," "designated country construction material," "domestic construction material," and "foreign construction material," as used in this provision, are defined in the clause of this solicitation entitled "Buy American Act--Construction Materials Under Trade Agreements" (Federal Acquisition Regulation (FAR) clause 52.225-11).
- (b) Requests for determination of inapplicability. An offeror requesting a determination regarding the inapplicability of the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-11 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

- (3) For long-term contracts-
 - (i) Within 60 to 120 days prior to the end of the fifth year of the contract; and
- (ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.
- (c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at

http://www.sba.gov/services/contractingopportunities/sizestandardstopics/.

- (d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.
- (e) Except as provided in paragraph (g) of this clause, the Contractor shall make the rerepresentation required by paragraph (b) of this clause by validating or updating all its representations in the Online Representations and Certifications Application and its data in the Central Contractor Registration, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.
- (f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.
- (g) If the Contractor does not have representations and certifications in ORCA, or does not have a representation in ORCA for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it [] is, [] is not a small business concern under NAICS Code 236220 assigned to contract number .

[Contractor to sign and date and insert authorized signer's name and title].

(End of Clause)

4.6 52.222-34 PROJECT LABOR AGREEMENT (MAY 2010)

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

"Labor organization" means a labor organization as defined in 29 U.S.C. 152(5).

"Project labor agreement" means a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. 158(f).

- (b) The Contractor shall maintain in a current status throughout the life of the contract the project labor agreement entered into prior to the award of this contract in accordance with solicitation provision 52.222-33, Notice of Requirement for Project Labor Agreement.
- (c) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts with subcontractors engaged in construction on the construction project.

(End of Clause)

4.7 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (JAN 2009)

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

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

- (1) Means any item of supply that is--
 - (i) A commercial item (as defined in paragraph (1) of the definition at 2.101);
 - (ii) Sold in substantial quantities in the commercial marketplace; and
- (iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46U.S.C. App. 1702), such as agricultural products and petroleum products. Per 46 CFR 525.1(c)(2), "bulk cargo" means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

"Employee assigned to the contract" means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a contract if the employee--

- (1) Normally performs support work, such as indirect or overhead functions; and
- (2) Does not perform any substantial duties applicable to the contract.