

SUBCONTRACT NO.: S14162 DATE: 25 April 2024 PROJECT NO.: 22002.0020  
PRIME CONTRACT NO.: W912DY-22-D-0050 TO NO.: W912DY-23-F-0020

SUBCONTRACTOR		JOB LOCATION	CMS CORPORATION PROJECT MANAGER
Name:	<u>National TAB</u>	MDA Building 2410 Barracks	John Parker
Address:	<u>1329 E. Kemper Rd. Suite 4210</u>	Renovation, Fort Bliss, TX	Phone: <u>419-304-6391</u>
City/State/Zip:	<u>Cincinnati, OH 45246</u>		Email: <u><a href="mailto:jparker@cmscorp.com">jparker@cmscorp.com</a></u>
Attn:	<u>Scott Springer</u>		
Phone:	<u>803-646-1559</u>		
Email:	<u><a href="mailto:scott@nationaltab.com">scott@nationaltab.com</a></u>		
		CLIENT	
		USACE, Huntsville	

**INVOICE TO:**  
All invoices shall be emailed to [ap@cmscorp.com](mailto:ap@cmscorp.com). Failure to email invoices will result in the invoice being rejected. Invoices will be paid via ACH Transfer unless otherwise determined by CMS.

**INVOICES MUST REFERENCE THIS SUBCONTRACT NUMBER AND JOB NUMBER, OR THEY WILL BE REJECTED**

PAYMENT OF INVOICES WILL NOT BE MADE WITHOUT COMPLETED LIEN WAIVERS WITH EACH INVOICE. SUBCONTRACTOR INVOICES MUST INCLUDE SUBCONTRACTOR'S INVOICE NUMBER

The following apply to this Subcontract Order if marked with an "X."

- THIS SUBCONTRACT WILL BE EXECUTED AS A FIRM-FIXED-PRICE.
- THIS SUBCONTRACT WILL BE EXECUTED AS A UNIT PRICE NOT TO EXCEED. THE SUBCONTRACTOR WILL INVOICE FOR ACTUAL QUANTITIES RECEIVED AND/OR PERFORMED AT THE UNIT PRICE LISTED FOR EACH LINE ITEM NOT TO EXCEED THE TOTAL ESTIMATED VALUE OF THIS SUBCONTRACT. ANY ADDITIONAL QUANTITIES FOR EACH LINE ITEM WILL NOT BE PAID UNLESS APPROVED BY A **CMS CORPORATION** PROJECT MANAGER AND A FORMAL CHANGE ORDER EXECUTED BY THE **CMS CORPORATION** PROCUREMENT DEPARTMENT.
- RETAINAGE 0 %
- THIS ORDER REQUIRES 100% PAYMENT AND PERFORMANCE BONDS AND MUST BE INCLUDED ON **CMS CORPORATION** BOND FORMS
- THIS ORDER REQUIRES A CERTIFICATE OF INSURANCE TO INCLUDE GENERAL LIABILITY, AUTO & WORKERS COMP, AND MUST **INCLUDE CMS CORPORATION** AND THE CLIENT AS ADDITIONAL INSURED
- THIS ORDER REQUIRES CONTRACTORS POLLUTION AND/OR PROFESSIONAL E&O INSURANCE COVERAGE
- THIS ORDER IS SUBJECT TO PREVAILING WAGES AND REQUIRED WEEKLY SUBMISSION OF CERTIFIED PAYROLLS.
- THIS IS A **DX-C2** DPAS RATED ORDER CERTIFIED FOR NATIONAL DEFENSE USE AND SUBJECT TO THE REQUIREMENTS OF THE DEFENSE PRIORITIES ALLOCATION SYSTEM REGULATION (15 CFR 700)
- THIS SUBCONTRACT IS APPLICABLE TO THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT, PUBLIC LAW 109-282 (FFATA). THE REPORTING REQUIREMENTS APPLY TO ANY COMPANY. THIS IS A PRIME RECIPIENT OR SUB-RECIPIENT OF FUNDS, GRANTS, AWARDS, OR FEDERAL CONTRACT MONIES. EXECUTIVE COMPENSATION FORM SHALL BE COMPLETED AND RETURNED.
- SMALL BUSINESS SUBCONTRACTING PLAN – APPLICABLE TO SUBCONTRACTS ISSUED TO OTHER THAN SMALL BUSINESSES FOR SERVICES OVER \$750,000, OR IN THE CASE OF CONSTRUCTION, \$1,500,000 THAT HAVE ONE OR MORE PRIME CONTRACT (S) AND/OR SUBCONTRACT (S) IN EXCESS OF \$650,000 (\$1.5 MILLION FOR CONSTRUCTION OF PUBLIC FACILITY) WITH THE FEDERAL GOVERNMENT, AND HAVE ONE OR MORE INDIVIDUAL SUBCONTRACTING PLANS (OR A MASTER PLAN) AND IS REQUIRED TO REPORT SUBCONTRACTS AWARDED TO SMALL BUSINESS (SB), SMALL DISADVANTAGED BUSINESS (SDB), WOMEN-OWNED SMALL BUSINESS (WOSB), HUBZONE SMALL BUSINESS (HUBZONE SB), VETERAN-OWNED SMALL BUSINESS (VOSB), SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS (SDVOSB), ALASKAN NATIVE CORPORATIONS (ANC) AND INDIAN TRIBES CONCERNS UNDER AN INDIVIDUAL SUBCONTRACTING PLAN WITH THE FEDERAL GOVERNMENT, SHALL SUBMIT AN ISR.

The following attachments, if marked with an "X," are made part of this Subcontract Order:

- A- SUBCONTRACTOR TERMS AND CONDITIONS
- B - SCOPE OF WORK AND SCHEDULE OF VALUES
- C - CLIENT FURNISHED SPECIFICATIONS (Already provided to the Subcontractor)
- D - CLIENT FURNISHED DRAWINGS (Already provided to the Subcontractor)
- E – FAR FLOWDOWN CLAUSES (As provided in the Prime Contract)
- F - CONTRACTOR SUPPLIED FORMS
- G - APPLICABLE WAGE DETERMINATIONS (Already provided to the Subcontractor)
- H – PROJECT SCHEDULE (REFER TO PROJECT MANAGER FOR UPDATES)

ALL WORK TO BE PERFORMED AS DESCRIBED WITHIN THIS DOCUMENT AND THE ATTACHED FOR THE TOTAL PRICE OF **\$32,700.00**. THE PRICE IS INCLUSIVE OF ALL TAXES AND FREIGHT. **CMS CORPORATION** SHALL HAVE NO LIABILITY FOR ANY OTHER EXPENSE OR COSTS INCURRED BY THE SUBCONTRACTOR EXCEPT PURSUANT TO AN APPROVED, WRITTEN CHANGE ORDER. PAYMENT WILL BE MADE ACCORDING TO THE SUBCONTRACT. AN EXECUTED COPY OF THE SUBCONTRACT SHALL BE RETURNED VIA EMAIL. OTHER DOCUMENTS TO BE EMAILED TO **CMS CORPORATION** PROCUREMENT VIA EMAIL TO [procurement@cmscorp.com](mailto:procurement@cmscorp.com)

SUBCONTRACT NO.: S14162 DATE: 25 April 2024 PROJECT NO.: 22002.0020  
PRIME CONTRACT NO.: W912DY-22-D-0050 TO NO.: W912DY-23-F-0020

The parties acknowledge that there has been an opportunity to negotiate the terms and conditions of this Subcontract and agree to be bound accordingly. EXECUTED by duly authorized representatives of the Parties:

**CMS Corporation**

**National TAB**

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By:   
Print: J Scott Springer  
Title: VP  
Date: Apr 29, 2024



**ATTACHMENT A**  
**TERMS AND CONDITIONS**

## ATTACHMENT A

### PROFESSIONAL SERVICES AGREEMENT TERMS AND CONDITIONS

This Agreement is entered into by and between CMS Corporation and Subcontractor as of the date above written. In and for the consideration contained herein, the value of which is acknowledged, the parties agree as follows:

1.1 **Purpose** – The purpose of this Agreement is to set forth the terms and conditions under which Professional Services ("Services") provided by the Subcontractor for CMS Corporation will be performed.

1.2 **Prime Contract** – The Subcontractor acknowledges that CMS Corporation has entered into an agreement with a third party, hereinafter called the Client, for services in connection with the job identified herein (Prime Contract). The Subcontractor is not permitted to contact the Client regarding issues relative to this project or Agreement without the prior written approval of CMS Corporation. Subcontractor further agrees and represents that: (a) it has investigated, examined, inspected, and thoroughly familiarized itself with the site and adjoining premises in connection with which the work covered by this Subcontract is to be performed, (b) it has thoroughly informed itself as to all difficulties involved in the completion of all of the work covered by this Subcontract, and (c) CMS Corporation has made no representations of any kind with reference thereto not contained in this Subcontract. CMS Corporation and/or Client-furnished data on-site conditions are only for the Subcontractor's convenience and are not guaranteed.

1.3 **Scope of Services** – The Subcontractor shall furnish all labor, materials, supplies, tools, and supervision to diligently perform the work as set forth herein. Subcontractor represents and warrants that all work performed by it pursuant to this Agreement (a) will conform with the terms of this Agreement; (b) will be performed in a good, skillful, and workmanlike manner; (c) will be performed by the proper number of experienced, skilled, and licensed personnel, qualified by education and/or experience to perform their assigned tasks; and (d) will conform to the standard of care, skill, and diligence exercised by other similar professionals performing the same or similar services. Further, all services shall be performed in accordance with the compliance and guidance documents set forth in the Prime Contract Statement of Work and any plans, general requirements, or technical specifications provided by CMS Corporation to the Subcontractor.

1.4 **Entire Agreement** – Together with this Agreement, each party's acceptance of these elements shall constitute the entire agreement between the two parties, superseding any and all prior negotiations, correspondence, or agreements, either written or oral. Any changes to this Agreement must be mutually agreed to in writing.

2.1 **Relationship Between the Parties** – The relationship between the parties shall be limited to the performance of services as set forth in this Agreement and shall not constitute a joint venture, partnership, or employer-employee relationship. Neither party may obligate the other to any expense or liability outside of the Agreement except upon written consent of the other.

3.1 **Period of Service** – The Subcontractor's Work shall be performed according to the schedule outlined by CMS Corporation, which may be modified per the instructions of the CMS Corporation Project Manager. Time is of the essence in the performance of the work. The Subcontractor shall schedule its operations so as to proceed with the orderly construction and completion of his work on or before the completion date. The Subcontractor agrees to coordinate its work with any other work to be done on the job by any other contractors whose work may overlap or conflict with the scope of the work under this Agreement. In the event of conflicts, the Subcontractor agrees to abide by the resolutions and decisions of CMS Corporation. Any extension of the contract completion date or any portions thereto that may become pertinent and critical in timing during the completion of the Agreement may only be granted by CMS Corporation in writing, properly executed, and definitively stating that an extension is granted. Approval of schedules submitted by the Subcontractor shall not be mandatory, but CMS Corporation reserves the right to reject any schedule that does not agree with the job schedule. Subcontractor shall not be entitled to extra compensation for any suspension, delay, or acceleration not specifically allowed and paid to CMS Corporation by its Client for Subcontractor's benefit.

4.1 **Duties** – The Subcontractor shall serve as a consultant to CMS Corporation in the activities of CMS Corporation set forth in this Subcontract Order. The Subcontractor shall perform such services under the general direction of CMS Corporation or its officers, but the Subcontractor shall determine the manner and means by which the services are accomplished.

5.1 **Payment** – Seller shall submit invoices to CMS Corporation by the 25th of the month at the address shown on the face of this Order. Invoices shall contain such information as directed by CMS Corporation's accounting staff, including CMS Corporation's Subcontractor Number, Prime Contract Number, CMS Corporation Job Number, CMS Corporation's Project Manager's Name, and a detailed description of the services satisfactorily provided. It is agreed and understood by the Subcontractor that such invoices must be supported by documentation as may be required by CMS Corporation or its Client. Upon CMS Corporation's request and as a condition of payment, the Subcontractor shall provide sworn statements, executed mechanics, or other lien waivers or other required documents with an invoice. Incomplete invoices will be rejected and returned to the Subcontractor. Subcontractor's invoices are an important element in the preparation of CMS Corporation's invoice to its Client, and as such, CMS Corporation must require that the Subcontractor invoice CMS Corporation promptly. Invoices received by CMS Corporation more than thirty (30) calendar days after either the end of each month or completion of this Subcontract, whichever time is the lesser, will only be paid to the extent such invoices can be included in CMS

Corporation's invoice to its Client. CMS Corporation will diligently pursue payment of the Subcontractor's invoices by its Client, and CMS Corporation shall pay the Subcontractor within seven (7) calendar days from the receipt of such payment. CMS Corporation shall make payment by means of electronic funds transfer. In each invoice, the Subcontractor shall provide CMS Corporation with information necessary for such electronic funds transfer, including, but not limited to (a) Beneficiary Bank Name; (b) City and Country; (c) SWIFT or SORT code; (d) Account number; and (e) Reference information.

**5.2 Taxes, Duties, and Fees** – Except to the extent expressly provided otherwise elsewhere in this Agreement, the Subcontractor shall pay when due, and the Agreement price shall be inclusive of all local, municipal, state, and federal sales and use taxes, excise taxes, duties, and all other governmental fees and taxes or charges of whatever nature applicable to the performance of the work of this Agreement, exclusive of ad valorem real property taxes and fees for building permits. Where the law requires any such tax to be stated charged separately, the total of all items included within the work and the added tax shall not exceed the total not-to-exceed cost for each project. Subcontractor shall also be responsible for all payroll taxes and contributions measured by wages, salaries, or other remuneration to the Subcontractor's employees or its lower-tier subcontractors which are currently or hereafter imposed by the United States, any state or subdivision thereof, or governmental body or agency, including without limitation taxes or contributions for unemployment insurance benefits, workers' compensation, old-age retirement benefits, and income taxes.

**5.3 Taxes From Which the U.S. Government is Exempt** – The Subcontractor represents that prices, including lower-tier subcontract prices, do not include any taxes from which the U.S. Government is exempt.

**6.1 Insurance** – The Subcontractor shall provide insurance of the types and in the amounts as set forth in the Insurance Requirements listed below.

**6.2 General** – The Subcontractor shall not commence any work until it obtains at its own expense the following required insurance policies. Such insurance must have the approval of CMS Corporation as to the limit, form, and amount.

**6.2.1 Worker's Compensation Insurance** – Worker's Compensation Insurance coverage of all persons that it employs or may employ in carrying out the work under this Agreement. This insurance shall be in strict accordance with the requirements of the most current and applicable State Worker's Compensation Insurance Laws.

**6.2.2 Comprehensive General Liability Insurance** – The Comprehensive General Liability shall include coverage in an amount not less than a combined single limit of \$1,000,000 for bodily injury and/or property damage arising out of any one occurrence. This coverage shall provide both bodily injury and property damage.

**6.2.3 Comprehensive Automobile Liability** – Comprehensive Automobile Liability Insurance coverage shall include coverage applying to owned, non-owned, and hired automobiles in an amount of not less than a single combined limit of \$1,000,000 for bodily injury, property damage, and death arising out of any one occurrence.

**6.2.4 Professional Errors and Omissions Liability Insurance** – Professional Errors and Omissions Liability Insurance coverage in an amount not less than a combined single limit of \$1,000,000 arising out of any one occurrence.

**6.3 Evidence** – As evidence of specified insurance coverage, the Subcontractor shall submit, prior to commencing any work and before any payment is made, certificates issued by the insurance carrier showing a 30-day notice of cancellation or change in coverage. Such policies shall be kept in force for the specified periods. Should any policy be canceled before final payment by CMS Corporation to the Subcontractor and the Subcontractor fails immediately to procure other insurance as specified, CMS Corporation reserves the right to procure such insurance and to deduct the cost thereof from any sum due to the Subcontractor under this Agreement.

**6.4 Payment of Damages** – Nothing contained in these insurance requirements is to be construed as limiting the extent of the Subcontractor's responsibility for payment of damages resulting from its operations under this Agreement.

**6.5 Additional Insureds** – Except for Workers' Compensation and Professional Liability insurance, the insurance coverage noted above will name CMS Corporation and its respective directors, partners, successors, executors, administrators, and employees as additional insureds with respect to the operations of the named insured. Such insurance will be the primary coverage and not contributory to CMS Corporation. If such policies do not contain the standard ISO separation of insureds provision or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

**7.1 Subcontractor Indemnity** – The Subcontractor shall be responsible for its negligent acts and omissions and those of any and all persons for whom it is legally responsible. Subcontractor agrees to hold CMS Corporation harmless and to indemnify and defend CMS Corporation against any and all loss, expense, and liabilities of every kind, including court costs and reasonable attorney fees arising out of or related to the negligent actions or inactions, errors, or omissions of Subcontractor, Subcontractor's employees, and all persons for whom Subcontractor is or may be legally responsible.

**7.2 CMS Corporation Indemnity** – CMS Corporation shall be responsible for its negligent acts and omissions and those of any and all persons for whom it is legally responsible, except the Subcontractor. CMS Corporation agrees to hold Subcontractor harmless and to

indemnify and defend Subcontractor against any and all loss, expense, and liabilities of every kind, including court costs and reasonable attorney fees arising out of or related to the negligent actions or inactions, errors, or omissions of CMS Corporation, CMS Corporation's employees, and all persons for whom CMS Corporation is or may be legally responsible, excepting Subcontractor.

**7.3 Comparative Fault** – The Subcontractor and CMS Corporation agree in the event CMS Corporation and Subcontractor are jointly responsible for any liability under the foregoing indemnities, each will indemnify the other on a comparative responsibility basis under comparative negligence principles.

7.3.1 This indemnification obligation will not be limited in any way by any limitation on the amount or type of insurance carried by the Subcontractor or by the amount or type of damages, compensation, or benefits payable by or for the Subcontractor or any lower-tier Subcontractor under Workers' Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts. If any claim or demand is made against CMS Corporation or the Client for any matter addressed herein, any payment to come due or thereafter to become due to the Subcontractor may be held by CMS Corporation to cover such losses and expenses.

**8.1 Subcontractor Termination for Default** – In the event the Subcontractor (1) becomes insolvent, or files or has filed against it any Petition in Bankruptcy, or makes an assignment for the benefit of creditors, or commences or has commenced against it or enters into any other proceeding or arrangement for relief of debtors, reorganization or deferral or discharge of debts, or (2) fails to pay, when due, wages or costs of labor, including benefits and taxes, or for materials, supplies, or other items purchased or used in connection with this Agreement, or (3) fails to pursue the Work in accordance with the requirements of the Agreement, the directions of CMS Corporation or the schedules established by the CMS Corporation, or (4) fails to supply a sufficient number of properly skilled supervisors, workers, materials, tools, equipment, or supplies of the proper quality, including failure occasioned by boycott, labor dispute or other cessation of work by Subcontractor's employees, or (5) interferes with or disrupts, or threatens to interfere or disrupt, the operation of CMS Corporation, Client or any other contractor, laborer, material supplier, Subcontractor, or other person working on the project, whether by reason of any boycott or labor dispute or any other reason, or (6) commits any other breach of this Agreement, Subcontractor shall be in default under this Agreement. In the event that such default continues for two (2) calendar days after written notice thereof by CMS Corporation to the Subcontractor, or immediately in the event that such default, in the judgment of CMS Corporation, cannot be cured within two (2) calendar day period after notice of default, CMS Corporation may without further notice terminate this Agreement, take possession of all of the Subcontractor's materials, supplies, and equipment on the Project site, in storage or in transit, and may make arrangements for the completion of the Work. The cost of completion, as well as any other costs, damages, or expenses, including the CMS Corporation's legal fees and expenses, incurred as a result of such default, shall be charged against any unpaid balance due to the Subcontractor, and if such total costs, damages, and expenses exceed the balance due, Subcontractor agrees to pay the amount of said excess upon demand by CMS Corporation. Subcontractor's materials and supplies may be incorporated and used in completing the Work. With respect to any items incorporated or consumed in the Work and for which the Subcontractor has not previously been paid, the net reasonable value of the same, being the lower of the Subcontractor's cost or fair market value as of the date CMS Corporation took possession of such items, shall be credited against the aforesaid total completion costs, damages, and expenses.

**8.2 Performance of Subcontractor Obligations** – In addition to, and not in substitution of the remedies hereinabove specified, CMS Corporation may immediately, in the event of default or failure of Subcontractor to perform its obligations hereunder, provide or arrange for the provision of such workmen and materials necessary to continue and complete the work contracted for hereunder, for the account of the Subcontractor and at Subcontractor's expense and apply any and all funds which may be or become due Subcontractor to such expense, all without terminating, rescinding, or voiding this Agreement or releasing the Subcontractor from any obligation or liability hereunder, or from any damages caused by Subcontractor's failure to perform.

**8.3 Remedies** – Notwithstanding any other provisions of this Agreement, in the event of default by the Subcontractor, CMS Corporation shall have the right to pursue any and all remedies provided herein or provided by law, in equity or otherwise, including, specifically, the right to apply for monies otherwise due Subcontractor from CMS Corporation, under this Agreement or any other agreement or circumstance, to the costs of curing such default or the damages therefrom.

**8.4 Assent to Delayed Completion** – In the event CMS Corporation does not terminate this Contract but assents to delayed completion of the work by the Subcontractor, such assent shall not be construed as a waiver of the Subcontractor's obligation to reimburse CMS Corporation for any costs, damages, or expenses incurred as a result of such delay; and all such costs, damages, and expenses shall be paid and reimbursed to CMS Corporation upon demand.

**8.5 Wrongful Exercise of Termination** – In the event that CMS Corporation wrongfully exercises any of its rights under this section 8, such termination shall be considered a Termination for Convenience as set forth in Article 9.2, and the Subcontractor's sole and exclusive remedy shall be the payment as provided therein.

**9.1 Termination of Prime Contract** – CMS Corporation shall have the right to terminate this Agreement in the event that the Agreement between Client and CMS Corporation is terminated for any reason. In the event of such termination, the Subcontractor's sole right and CMS Corporation's sole obligation to the Subcontractor shall be the payment for the work completed by the Subcontractor to the extent that CMS Corporation can recover such payment from the Client, less any amounts due to CMS Corporation by Subcontractor. As a condition

of such payment, the Subcontractor shall furnish CMS Corporation with a release, satisfactory in form and substance to CMS Corporation, of all claims against the CMS Corporation and Client.

**9.2 Termination for Convenience** – CMS Corporation, by written notice, shall have the right to terminate and cancel this Agreement without the Subcontractor being at fault, for any cause, or for its own convenience, and require the Subcontractor to immediately stop work. In such an event, CMS Corporation shall pay the Subcontractor for the work actually performed in an amount proportionate to this Agreement price. CMS Corporation shall not be liable to the Subcontractor for any other costs, including prospective profits, on work not performed. However, if the reason for the termination and cancellation of this Agreement is due to any default or action by the Client, A/E, or as a result of Court Order or public authority, then CMS Corporation shall not be liable to the Subcontractor for any sum greater than that which CMS Corporation receives from Client on behalf of Subcontractor's performance, less any costs incurred by CMS Corporation.

**9.3 Termination** – The Performance Period or any project authorization may be terminated immediately, at-will, by CMS Corporation for any or no reason upon notice to the Subcontractor. The covenants and agreements set forth in Articles 7, 8, 9, 10, and 15 shall survive the Performance Period and remain in full force and effect regardless of such termination.

**10.1 Confidential Information** – The Subcontractor agrees that, in the performance of work hereunder, its personnel will maintain the confidentiality of the Work and this Project. In this regard, the Subcontractor's personnel shall not disclose any data or information to any party other than CMS Corporation's personnel concerning the Job Site or the Job, including without limitation the nature or results of the work performed by the Subcontractor hereunder. The Subcontractor shall direct all third-party inquiries or comments to CMS Corporation's on-site representative.

**10.2 Proprietary Properties of Others** – In its performance hereunder, the Subcontractor shall comply with all legal obligations it may now or hereafter have to respect the information or other property of any other person, firm, or corporation. Specifically, the Subcontractor shall not disclose to CMS Corporation any proprietary information or trade secrets of others.

**11.1 Non-Infringement** – The Subcontractor represents and warrants that the services performed under this Agreement and the Innovations made or contributed by the Subcontractor hereunder will not infringe on any rights of any third party.

**12.1 Severability** – If a court finds any provision of this Agreement invalid or unenforceable as applied to any circumstance, that provision shall be enforced to the maximum extent permitted by law, and the other provisions will remain in full force and effect.

**13.1 Notice** – Any notice to be delivered pursuant to this Agreement shall be in writing and shall be deemed delivered upon service if served personally or three (3) calendar days after deposit in the U.S. Mail if mailed by first-class mail, postage paid, registered, or certified with return receipt requested, and addressed to the other party at the address stated in this Subcontract Order.

**14.1 Amendment** – This Agreement may be modified or amended only by a written change order or written change directive issued by the CMS Corporation Procurement Department.

**15.1 Validity, Interpretation, and Performance** – The validity, interpretation, and performance of this Subcontract and all other Contract Documents shall be governed, construed, and interpreted in accordance with the substantive laws of the United States of America. Notwithstanding the foregoing, to the extent that the laws of the United States of America fail to regulate any of the arrangements covered by this Agreement, the laws of the state of Ohio shall apply to this Agreement.

**15.2 Dispute Resolution** – By execution of this Subcontract, the Subcontractor expressly agrees to waive any rights to invoke the jurisdiction of local courts where this Contract is performed. Subcontractor and CMS Corporation agree to submit to the exclusive jurisdiction and venue of any Federal, state, or local court having a situs within the State of Ohio with respect to any dispute, claim, or suit, whether directly or indirectly, arising out of or relating to this Subcontract or the obligations of either party hereunder, and each of the Parties waive any and all objection which it may have based on improper venue or forum non conveniens to the conduct of any such action or proceeding in such court.

**15.3 Invalidity of Provisions** – The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity of continuing force and effect of any other provision.

**15.4 Waiver** – The failure of either party hereto to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Agreement or to exercise any right herein shall not be construed as a waiver or relinquishment of such term covenant, condition or right as respects further performance.

**15.5 Paragraph Headings** – All paragraph headings herein are for convenience only and are in no way to be construed as part of this Agreement or as a limitation of the scope of the particular governmental sections to which they refer.

**15.6 Variations Between Contract Documents** – The Contract Documents are complementary and should be read so as to avoid inconsistent interpretations in the event of variations, conflicts, ambiguities, or inconsistencies between or among the terms, provisions, or conditions of this Subcontract and any other Contract Documents, the terms, provisions, and conditions which grant greater rights or

remedies to CMS Corporation or impose higher standards with regard to the obligations, responsibilities, and Scope of Work of the Subcontractor shall control.

**15.7 Execution of Agreement** – This Agreement may be executed in any number of counterparts (including via facsimile) and by the different parties hereto on separate counterparts, each of which, when so executed and delivered, shall be an original, but all of which shall together constitute one and the same instrument.

**16.1 Code of Business Ethics and Practices** – The Subcontractor represents and warrants that, unless otherwise exempted, it is in compliance with the requirements of Federal Acquisition Requirement (FAR) Subparts 3.10 and 52.203-13 and shall maintain continued compliance throughout the course of performance of this Subcontract. Should the Subcontractor be exempted from mandatory compliance with FAR Subparts 3.10 and 52.203-13, the Subcontractor nevertheless represents and warrants that it shall, during the performance of this Subcontract, conform to the policy set forth in FAR 3.1002.

**16.2 Corrupt Practices Act** – CMS Corporation maintains full compliance with the USS Foreign Corrupt Practices Act (15 USC §§ 78dd-1, et seq.) as part of its Ethics program. In accordance with the Foreign Corrupt Practices Act, Subcontractor shall not make any bribe kickback, or similar payment or offer of payment of money or anything of value, direct or indirect, by or on behalf of itself or CMS Corporation, to or for the benefit of any foreign government official, foreign political party, or candidate for foreign office for the purpose of inducing such person to use his or her influence to assist in obtaining, retaining, or directing business to Subcontractor or CMS Corporation. Any violation of this Article by the Subcontractor shall be deemed a material breach of this Agreement and subject the Subcontractor to immediate termination for default.

**17.1 Representations and Certifications** – The Subcontractor certifies they are registered in the System for Award Management (SAM) (SAM.gov) and maintain an active registration.

**17.2 Covered Telecommunications Equipment** – The Subcontractor warrants and represents that it is in compliance with the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. No. 115-232), specifically Sections 889(a)(1)(A) and 889(a)(1)(B) regarding the prohibition against the provision or use of covered video surveillance and telecommunications equipment or covered equipment and services produced and provided by certain entities (including their subsidiaries or affiliates) in accordance with this Act.

**17.3 NIST SP800-171 DOD Assessment** – The Subcontract warrants and represents, where applicable, they are in compliance with the Basic Assessment self-assessment of the contractor implementation of NIST SP800-171 as prescribed in DFARS 252.204-7020 and have posted scores in SPRS.

**17.4 Ensuring Adequate COVID-19 Safety Protocols for Federal Contracts** – The Subcontractor represents and warrants that, unless otherwise exempt, it is in compliance with Executive Order 14042 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, the requirements of DFARS 252.223-7999, and FAR 52.223-99, and shall maintain continued compliance throughout the course of performance of this Subcontract.

**18.1 Health and Safety** – The Subcontractor shall take all necessary precautions for the safety of its employees on the Job Site and shall comply with all applicable provisions of Federal, state, local, and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. Subcontractor shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for the protection of workmen and the public and shall post danger signs warning against the hazards created by such Work.

**18.2 Health and Safety and Personal Protective Equipment (PPE)** – The Subcontractor shall be responsible for providing their employees with all required PPE on the CMS Corporation project site. PPE, at a minimum, shall consist of hard hats, high-visibility clothing (a Class 2 reflective vest may be worn instead of high-visibility clothing), safety glasses, and safety-toed boots. Some projects, such as roadway or airfield work, may require a Class 3 reflective vest to be worn by Subcontractor personnel.

**18.3 Orientation** – The Subcontractor shall attend CMS Corporation's site-specific orientation for all new employees to the project site. This may be in addition to the project owner's orientation. The CMS Corporation site personnel will administer the orientation for all new Subcontractor employees prior to working on the CMS Corporation project site.

**ATTACHMENT B**  
**SCOPE OF WORK/SCHEDULE OF VALUES**

## **ATTACHMENT B SCOPE OF WORK AND SCHEDULE OF VALUES**

### **SCOPE OF WORK**

National TAB (Subcontractor), does hereby agree to proceed with the following work in accordance with CMS Corporation (CMS), Contract W912DY-22-0050; Task Order W912DY-23-F-0020, MDS Building 2410 Barracks Renovation, Fort Bliss, TX Project in accordance with the Drawings Dated 01/13/2005 & Contract Documents.

### **BASIC SERVICES – Tasting and Balancing**

Provide labor, material, equipment, and supervision to performing the following work in accordance with the USACE statement of work and the CMS design and specifications.

### **STATEMENT OF REQUIREMENTS**

#### **General Scope Requirements:**

Subcontractor to provide the following services:

- Perform Testing and Balancing of the following:
  - 120 Air Devices
  - 2 Pumps
  - 1 Chiller
  - 90 FCU's

## GENERAL

It will be the responsibility of the Subcontractor to coordinate with **CMS CORPORATION** to obtain badging for all personnel working on-site. This may include providing names of personnel to be on-site, requesting paperwork, completing Government forms, providing fingerprinting if necessary, etc. Please contact **CMS CORPORATION** FSO for assistance. **CMS CORPORATION** FSO can be contacted at [basepass@cmscorp.com](mailto:basepass@cmscorp.com). It is the responsibility of the Subcontractor to provide badging information requested by **CMS CORPORATION** and/or the Government within the time requested or within a timely manner from the date of request.

## GENERAL CONDITIONS

- All work performed must adhere to the most current version of the **CMS CORPORATION** Approved Accident Prevention and Quality Control Plan.
- Due to the construction schedule, multiple mobilizations may be required; this will be at no additional charge.
- If Installation is required, it is to be per PLANS & SPECS, and the Subcontractor is to install to all applicable codes.
- The construction site is to be cleaned and maintained daily during the construction period.
- Adjacent surfaces are to be protected at all times by this Subcontractor throughout the performance of the Subcontract. Any costs incurred by **CMS CORPORATION** resulting from damage caused by this Subcontractor during the completion of scope will be deducted from this subcontract value.
- Passes may be required for entry onto the project site. It is the Subcontractor's responsibility to fully complete and submit badge request information (to be provided) for all required site personnel three weeks prior to expected arrival.
- This Subcontractor is required to submit all necessary data sheets and shop drawings for submittal approval within adequate time for submittal approval as described in the Prime Contract documents. Submittals must be submitted in a format as defined in the Prime Contract.
- Applicable closeout documentation to be submitted prior to final payment, including but not limited to Operation and Maintenance manuals, manufacturer warranty forms, as-built drawings, and owner training information.
- Deliveries must be scheduled in advance, and notification must be provided to the project superintendent 48 hours prior to delivery. SUBCONTRACTOR must be present to receive deliveries. Should the SUBCONTRACTOR not be able to receive and sign for deliveries, the shipment will be refused, and all costs associated with refusal and re-delivery will be the responsibility of the SUBCONTRACTOR.
- Daily reports are to be submitted to the **CMS CORPORATION** on-site QC Manager for all on-site work days. Reports are to include work status, delays, labor hours spent for that day's work, including all sub-subcontractors, equipment on site, and any safety near misses or mishaps.
- Work on site cannot begin until an executed subcontract, along with a Certificate of Insurance (as defined on page 1) and payment and performance bonds (If applicable, as described on page 1), are received by **CMS CORPORATION**.
- This Subcontractor is responsible for payment of all applicable taxes for all materials purchased under this subcontract agreement.
- **All invoices will be paid via ACH transfer unless otherwise determined by CMS CORPORATION.**

### Contract References for:

**CMS CORPORATION** Prime Contract No.: W912DY-22-D-0050

**CMS CORPORATION** Project No.: 22002.0020

Subcontract # S14162 / National TAB



**ATTACHMENT C**

**SPECIFICATIONS (Incorporated by Reference)**

**ATTACHMENT D**  
**DRAWINGS (Incorporated by Reference)**

**ATTACHMENT E**

**FAR FLOWDOWNS (Incorporated by Reference)**

Attachment E

**FLOW DOWN CLAUSES IN SUPPORT OF FEDERAL PRIME CONTRACT NO. W912DY-22-D-0050  
TASK ORDER NO. W912DY-23-F-0020**

**Prime Contract Federal Acquisition Regulation Clauses Incorporated by reference**

52.202-1 Definitions JUN 2020  
52.203-3 Gratuities APR 1984  
52.203-5 Covenant Against Contingent Fees MAY 2014  
52.203-6 Restrictions On Subcontractor Sales To The Government JUN 2020  
52.203-7 Anti-Kickback Procedures JUN 2020  
52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity MAY 2014  
52.203-10 Price Or Fee Adjustment For Illegal Or Improper Activity MAY 2014  
52.203-12 Limitation On Payments To Influence Certain Federal Transactions JUN 2020  
52.203-13 Contractor Code of Business Ethics and Conduct DEC 2021  
52.203-17 Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights JUN 2020  
52.204-2 Security Requirements MAR 2021  
52.204-4 Printed or Copied Double-Sided on Postconsumer Fiber Content Paper MAY 2011  
52.204-9 Personal Identity Verification of Contractor Personnel JAN 2011  
52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards JUN 2020  
52.204-13 System for Award Management Maintenance OCT 2018  
52.204-19 Incorporation by Reference of Representations and Certifications. DEC 2014  
52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities DEC 2021  
52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment DEC 2021  
52.209-6 Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment DEC 2021  
52.209-9 Updates of Publicly Available Information Regarding Responsibility Matters OCT 2018  
52.209-10 Prohibition on Contracting With Inverted Domestic Corporations NOV 2015  
52.210-1 Market Research DEC 2021  
52.211-5 Material Requirements AUG 2000  
52.211-13 Time Extensions SEP 2000  
52.215-2 Audit and Records--Negotiation JUN 2020  
52.215-11 Price Reduction for Defective Certified Cost or Pricing Data-- Modifications JUN 2020  
52.215-13 Subcontractor Certified Cost or Pricing Data--Modifications JUN 2020  
52.215-19 Notification of Ownership Changes OCT 1997  
52.215-21 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications DEC 2021  
52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns SEP 2021  
52.219-6 Notice Of Total Small Business Set-Aside NOV 2020  
52.219-8 Utilization of Small Business Concerns OCT 2018  
52.219-9 Small Business Subcontracting Plan DEC 2021  
52.219-9 Alt II Small Business Subcontracting Plan (NOV 2021) Alternate II NOV 2016  
52.219-16 Liquidated Damages-Subcontracting Plan SEP 2021  
52.219-32 Orders Issued Directly Under Small Business Reserves MAR 2020  
52.222-3 Convict Labor JUN 2003  
52.222-4 Contract Work Hours and Safety Standards – Overtime Compensation MAY 2018  
52.222-6 Construction Wage Rate Requirements AUG 2018  
52.222-7 Withholding of Funds MAY 2014  
52.222-8 Payrolls and Basic Records JUL 2021  
52.222-9 Apprentices and Trainees JUL 2005  
52.222-10 Compliance with Copeland Act Requirements FEB 1988

52.222-11 Subcontracts (Labor Standards) MAY 2014  
52.222-12 Contract Termination-Debarment MAY 2014  
52.222-13 Compliance With Construction Wage Rate Requirements and Related Regulations MAY 2014  
52.222-14 Disputes Concerning Labor Standards FEB 1988  
52.222-15 Certification of Eligibility MAY 2014  
52.222-21 Prohibition Of Segregated Facilities APR 2015  
52.222-26 Equal Opportunity SEP 2016  
52.222-27 Affirmative Action Compliance Requirements for Construction APR 2015  
52.222-29 Notification Of Visa Denial APR 2015  
52.222-30 Construction Wage Rate Requirements--Price Adjustment (None or Separately Specified Method) AUG 2018  
52.222-32 Construction Wage Rate Requirements--Price Adjustment (Actual Method) AUG 2018  
52.222-35 Equal Opportunity for Veterans JUN 2020  
52.222-36 Equal Opportunity for Workers with Disabilities JUN 2020  
52.222-37 Employment Reports on Veterans JUN 2020  
52.222-40 Notification of Employee Rights Under the National Labor Relations Act DEC 2010  
52.222-50 Combating Trafficking in Persons DEC 2021  
52.222-54 Employment Eligibility Verification DEC 2021  
52.222-55 Minimum Wages Under Executive Order 13658 JAN 2022  
52.222-62 Paid Sick Leave Under Executive Order 13706 JAN 2017  
52.223-1 Biobased Product Certification MAY 2012  
52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts SEP 2013  
52.223-4 Recovered Material Certification MAY 2008  
52.223-5 Pollution Prevention and Right-to-Know Information MAY 2011  
52.223-6 Drug-Free Workplace MAY 2001  
52.223-15 Energy Efficiency in Energy-Consuming Products MAY 2020  
52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts AUG 2018  
52.223-18 Encouraging Contractor Policies To Ban Text Messaging While Driving JUN 2020  
52.223-20 Aerosols JUN 2016  
52.223-21 Foams JUN 2016  
52.223-22 Public Disclosure of Greenhouse Gas Emissions and Reduction Goals -- Representation. DEC 2016  
52.225-13 Restrictions on Certain Foreign Purchases FEB 2021  
52.225-19 Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States MAY 2020  
52.225-23 Required Use of American Iron, Steel, and Manufactured Goods--Buy American Statute--Construction Materials Under Trade Agreements JAN 2021  
52.227-1 Authorization and Consent JUN 2020  
52.227-2 Notice And Assistance Regarding Patent And Copyright Infringement JUN 2020  
52.228-2 Additional Bond Security OCT 1997  
52.228-3 Worker's Compensation Insurance (Defense Base Act) JUL 2014  
52.228-5 Insurance - Work On A Government Installation JAN 1997  
52.228-11 Individual Surety--Pledge of Assets FEB 2021  
52.228-12 Prospective Subcontractor Requests for Bonds MAY 2014  
52.228-14 Irrevocable Letter of Credit NOV 2014  
52.229-3 Federal, State And Local Taxes FEB 2013  
52.229-6 Taxes--Foreign Fixed-Price Contracts FEB 2013  
52.232-16 Progress Payments DEC 2021  
52.232-17 Interest MAY 2014  
52.232-23 Assignment Of Claims MAY 2014  
52.232-23 Alt I Assignment of Claims (May 2014) - Alternate I APR 1984  
52.232-25 Prompt Payment JAN 2017  
52.232-33 Payment by Electronic Funds Transfer--System for Award Management OCT 2018  
52.232-39 Unenforceability of Unauthorized Obligations JUN 2013  
52.232-40 Providing Accelerated Payments to Small Business Subcontractors DEC 2021  
52.233-1 Disputes MAY 2014  
52.233-3 Protest After Award AUG 1996  
52.233-4 Applicable Law for Breach of Contract Claim OCT 2004  
52.236-2 Differing Site Conditions APR 1984

52.236-3 Site Investigation and Conditions Affecting the Work APR 1984  
52.236-5 Material and Workmanship APR 1984  
52.236-6 Superintendence by the Contractor APR 1984  
52.236-7 Permits and Responsibilities NOV 1991  
52.236-8 Other Contracts APR 1984  
52.236-9 Protection of Existing Vegetation, Structures, Equipment Utilities, and Improvements APR 1984  
52.236-10 Operations and Storage Areas APR 1984  
52.236-11 Use and Possession Prior to Completion APR 1984  
52.236-12 Cleaning Up APR 1984  
52.236-13 Accident Prevention NOV 1991  
52.236-14 Availability and Use of Utility Services APR 1984  
52.236-15 Schedules for Construction Contracts APR 1984  
52.236-16 Quantity Surveys APR 1984  
52.236-17 Layout of Work APR 1984  
52.236-21 Alt I Specifications and Drawings for Construction (Feb 1997) - Alternate I APR 1984  
52.236-25 Requirements for Registration of Designers JUN 2003  
52.236-26 Preconstruction Conference FEB 1995  
52.242-5 Payments to Small Business Subcontractors JAN 2017  
52.242-13 Bankruptcy JUL 1995  
52.242-14 Suspension of Work APR 1984  
52.243-4 Changes JUN 2007  
52.244-5 Competition In Subcontracting DEC 1996  
52.244-6 Subcontracts for Commercial Products and Commercial Services JAN 2022  
52.246-12 Inspection of Construction AUG 1996  
52.246-21 Warranty of Construction MAR 1994  
52.247-34 F.O.B. Destination NOV 1991  
52.247-63 Preference For U.S. Flag Air Carriers JUN 2003  
52.247-64 Preference for Privately Owned U.S. - Flag Commercial Vessels DEC 2021  
52.248-3 Value Engineering-Construction OCT 2020  
52.249-2 Alt I Termination for Convenience of the Government (Fixed- Price) (Apr 2012) - Alternate I SEP 1996  
52.249-10 Default (Fixed-Price Construction) APR 1984  
52.253-1 Computer Generated Forms JAN 1991

### **Prime Contract Defense Federal Acquisition Regulation Clauses incorporated by reference**

252.203-7000 Requirements Relating to Compensation of Former DoD Officials SEP 2011  
252.203-7001 Prohibition On Persons Convicted of Fraud or Other Defense- Contract-Related Felonies DEC 2008  
252.203-7003 Agency Office of the Inspector General AUG 2019  
252.204-7000 Disclosure Of Information OCT 2016  
252.204-7003 Control Of Government Personnel Work Product APR 1992  
252.204-7004 Antiterrorism Awareness Training for Contractors. FEB 2019  
252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting DEC 2019  
252.205-7000 Provision Of Information To Cooperative Agreement Holders DEC 1991  
252.209-7004 Subcontracting With Firms That Are Owned or Controlled By The Government of a Country that is a State Sponsor of Terrorism MAY 2019  
252.219-7003 Small Business Subcontracting Plan (DOD Contracts) DEC 2019  
252.219-7011 Notification to Delay Performance JUN 1998  
252.222-7002 Compliance With Local Labor Laws (Overseas) JUN 1997  
252.222-7006 Restrictions on the Use of Mandatory Arbitration Agreements DEC 2010  
252.223-7006 Prohibition On Storage, Treatment, and Disposal of Toxic or Hazardous Materials SEP 2014  
252.223-7008 Prohibition of Hexavalent Chromium JUN 2013  
252.225-7012 Preference For Certain Domestic Commodities DEC 2017  
252.225-7040 Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States OCT 2015  
252.225-7041 Correspondence in English JUN 1997  
252.225-7043 Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States JUN 2015  
252.225-7048 Export-Controlled Items JUN 2013  
252.226-7001 Utilization of Indian Organizations and Indian-Owned Economic Enterprises, and Native Hawaiian Small

Business Concerns APR 2019  
252.227-7022 Government Rights (Unlimited) MAR 1979  
252.227-7023 Drawings and Other Data to become Property of Government MAR 1979  
252.227-7033 Rights in Shop Drawings APR 1966  
252.232-7003 Electronic Submission of Payment Requests and Receiving Reports DEC 2018  
252.232-7008 Assignment of Claims (Overseas) JUN 1997  
252.232-7010 Levies on Contract Payments DEC 2006  
252.232-7017 Accelerating Payments to Small Business Subcontractors-- Prohibition on Fees and Consideration APR 2020  
252.233-7001 Choice of Law (Overseas) JUN 1997  
252.236-7000 Modification Proposals-Price Breakdown DEC 1991  
252.242-7006 Accounting System Administration FEB 2012  
252.243-7001 Pricing Of Contract Modifications DEC 1991  
252.243-7002 Requests for Equitable Adjustment DEC 2012  
252.244-7000 Subcontracts for Commercial Items JAN 2021  
252.247-7023 Transportation of Supplies by Sea FEB 2019

### **Prime Contract Federal Acquisition Regulation Contract Clauses In Full Text**

52.225-9 BUY AMERICAN—CONSTRUCTION MATERIALS (NOV 2021)

(a) Definitions. As used in this clause--  
Commercially available off-the-shelf (COTS) item—

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

(i) A commercial product (as defined in paragraph (1) of the definition of "commercial product" at Federal Acquisition Regulation (FAR) 2.101);

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

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

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

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

Cost of components means--

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

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

Domestic construction material means--

(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both-

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

(ii) A construction material manufactured in the United States, if--

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 55 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

(B) The construction material is a COTS item; or

(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of foreign iron and steel constitutes less than 5 percent of the cost of all components used in such construction material. The cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the construction material and a good faith estimate of the cost of all foreign iron or steel components excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of "cost of components".

Fastener means a hardware device that mechanically joins or affixes two or more objects together. Examples of fasteners are nuts, bolts, pins, rivets, nails, clips, and screws.

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

Foreign iron and steel means iron or steel products not produced in the United States. Produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving refinement of steel additives. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign.

Predominantly of iron or steel or a combination of both means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.

Steel means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.

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

(b) Domestic preference.

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the domestic content test of the Buy American statute is waived for construction material that is a COTS item, except that for construction material that consists wholly or predominantly of iron or steel or a combination of both, the domestic content test is applied only to the iron and steel content of the construction materials, excluding COTS fasteners. (See FAR 12.505(a)(2)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to information technology that is a commercial product or to the construction materials or components listed by the Government as follows:

None

(i) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;

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

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

(c) Request for determination of inapplicability of the Buy American Act. (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including--

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

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

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

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

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

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

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

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

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

Foreign and Domestic Construction Materials Price Comparison

-----  
Construction material description Unit of measure Quantity Price (dollars) \\*\

-----  
Item 1:

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

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

Item 2:

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

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

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

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

[Include other applicable supporting information.]

(End of clause)

#### 52.225-11 BUY AMERICAN--CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (NOV 2021)

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

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

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

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

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

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

(i) A commercial product (as defined in paragraph (1) of the definition of "commercial product" at Federal Acquisition Regulation (FAR) 2.101);

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

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

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

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

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

Cost of components means—

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

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

construction material.

Designated country means any of the following countries:

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

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

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

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

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

Domestic construction material means--

(1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both-

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

(ii) A construction material manufactured in the United States, if--

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 55 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or

(B) The construction material is a COTS item; or

(2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of foreign iron and steel constitutes less than 5 percent of the cost of all components used in such construction material. The cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the construction material and a good faith estimate of the cost of all foreign iron or steel components excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of "cost of components".

Fastener means a hardware device that mechanically joins or affixes two or more objects together. Examples of fasteners are nuts, bolts, pins, rivets, nails, clips, and screws.

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

Foreign iron and steel means iron or steel products not produced in the United States. Produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving refinement of steel additives. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign.

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

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

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

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

Least developed country construction material means a construction material that—

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

Predominantly of iron or steel or a combination of both means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.

Steel means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.

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

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

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

(b) Construction materials.

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the domestic content test of the Buy American statute is waived for construction material that is a COTS item, except that for construction material that consists wholly or predominantly of iron or steel or a combination of both, the domestic content test is applied only to the iron and steel content of the construction material, excluding COTS fasteners. (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

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

(3) The requirement in paragraph (b)(2) of this clause does not apply to information technology that is a

commercial product or to the construction materials or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate "none"]

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

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;

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

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

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

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

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

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph

(b)(3) of this clause.

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

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

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

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

(3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign

construction material is noncompliant with the Buy American statute.

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

Foreign and Domestic Construction Materials Price Comparison

-----  
Construction material description Unit of measure Quantity Price (dollars) \*  
-----

Item 1:

Foreign construction material.....

Domestic construction material.....

Item 2:

Foreign construction material.....

Domestic construction material.....  
-----

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

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

[Include other applicable supporting information.]

(End of clause)

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

FAR at <http://www.acquisition.gov>

(End of clause)

**Prime Contract Defense Federal Acquisition Regulation Contract Clauses In Full Text**

252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)

(a) The Contractor shall inform its employees in writing, in the predominant native language of the workforce, of contractor employee whistleblower rights and protections under 10 U.S.C. 2409, as described in subpart 203.9 of the Defense Federal Acquisition Regulation Supplement.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts.

(End of clause)

252.203-7004 DISPLAY OF HOTLINE POSTERS (AUG 2019)

(a) Definition. As used in this clause-- United States means the 50 States, the District of Columbia, and outlying areas.

(b) Display of hotline poster(s).

(1)(i) The Contractor shall display prominently the DoD fraud, waste, and abuse hotline poster prepared by the DoD Office of the Inspector General, in effect at time of contract award, in common work areas within business segments performing work under Department of Defense (DoD) contracts.

(ii) For contracts performed outside the United States, when security concerns can be appropriately demonstrated, the contracting officer may provide the contractor the option to publicize the program to contractor personnel in a manner other than public display of the poster, such as private employee written instructions and briefings.

(2) If the contract is funded, in whole or in part, by Department of Homeland Security (DHS) disaster relief funds and the work is to be performed in the United States, the DHS fraud hotline poster shall be displayed in addition to the DoD hotline poster. If a display of a DHS fraud hotline poster is required, the Contractor may obtain such poster from—

(i) DHS Office of Inspector General/MAIL STOP 0305, Attn: Office of Investigations – Hotline, 245 Murray Lane SW, Washington, DC 20528-0305; or

(ii) Via the internet at [https://www.oig.dhs.gov/assets/Hotline/DHS\\_OIG\\_Hotline-optimized.jpg](https://www.oig.dhs.gov/assets/Hotline/DHS_OIG_Hotline-optimized.jpg).

(c)(1) The DoD hotline poster may be obtained from: Defense Hotline, The Pentagon, Washington, D.C. 20301-1900, or is also available via the internet at <https://www.dodig.mil/Resources/Posters-and-Brochures/>.

(2) If a significant portion of the employee workforce does not speak English, then the poster is to be displayed in the foreign languages that a significant portion of the employees speak.

(3) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the required poster at the website.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed the threshold specified in Defense Federal Acquisition Regulation Supplement 203.1004(b)(2)(ii) on the date of subcontract award, except when the subcontract is for the acquisition of a commercial item.

(End of clause)

## 252.223-7004 DRUG-FREE WORK FORCE (SEP 1988)

(a) Definitions.

(1) "Employee in a sensitive position," as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security; health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(b) "Illegal drugs," as used in this clause, means controlled substances included in Schedules I and II, as defined by section 802(6) of title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law. The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objectives of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, and efficient use of Contractor resources, and the risks to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing--

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employees has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2..1 of subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11, 1988), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such times as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing program shall not apply to the extent that are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

(End of clause)

### **Task Order Federal Acquisition Regulation Clauses Incorporated by reference**

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

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

52.204-26 Covered Telecommunications Equipment or Services--Representation (OCT 2020)

52.219-14 Limitations On Subcontracting (OCT 2022)

52.225-9 Buy American--Construction Materials (OCT 2022)

52.225-11 (Dev) Buy American - Construction Materials Under Trade Agreements (DEVIATION 2020-00019) (OCT 2022)

**Task Order Defense Federal Acquisition Regulation Supplement Clauses Incorporated by reference**

252.225-7044 Balance of Payments Program--Construction Material--Basic (JUN 2022)

**Task Order Federal Acquisition Regulation Contract Clauses In Full Text**

None

**ATTACHMENT F**

**Subcontractor Provided Docs**

## SUBCONTRACT APPLICATION AND CERTIFICATION FOR PAYMENT

<b>TO:</b> CMS Corporation	<b>PROJECT:</b> MDA Building 2410 Barracks Renovation, Fort Bliss, TX	<b>APPLICATION NO:</b> 0	
<b>Project Manager:</b> John Parker		<b>APPLICATION DATE:</b>	
<b>Prime Contract #</b> W912DY-22-D-0050		<b>PERIOD COVERED</b> From:	To:
<b>Delivery Order #:</b> W912DY-23-F-0020		<b>CMS Corporation Accounting Dept. Only</b>	
<b>FROM SUBCONTRACTOR:</b> National TAB		<b>Project Number</b> 22002.0020	
		<b>Date Approved</b>	
		<b>Approved By</b>	
		<b>ACCT GL Number</b>	
<b>SUBCONTRACT NUMBER:</b> S14162			
<b>SUBCONTRACT DATED:</b> 25 April 2024			

### SUBCONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Subcontract.

1. ORIGINAL SUBCONTRACT SUM	\$	\$32,700.00	
2. Net change by Change Orders	\$	\$0.00	
3. SUBCONTRACT SUM TO DATE (Line 1 ± 2)	\$	\$32,700.00	
4. TOTAL COMPLETED & STORED TO DATE (Reference Column G on 2nd page )	\$	\$0.00	
5. RETAINAGE:			
a. 0% % of Completed Work		0	
b. 0% % of Stored Material		0	
(Column F )			
Total Retainage (Lines 5a + 5b or Total in Column I )			
	\$	\$0.00	
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$	\$0.00	
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior pay application certificate)	\$	\$0.00	
8. CURRENT PAYMENT DUE	\$	\$0.00	
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Should Equal Column H and I on continuation sheet)	\$	\$32,700.00	

The undersigned Subcontractor Representative certifies that to the best of the Subcontractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Subcontract and its Contract Documents, that all amounts have been paid by the Subcontractor for Work for which previous Certificates for Payment were issued and payments received from CMS Corporation, and that current payment shown herein is now due.

SUBCONTRACTOR:

By: \_\_\_\_\_

State of: \_\_\_\_\_ County of: \_\_\_\_\_  
 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_  
 Notary Public:  
 My Commission expires: \_\_\_\_\_

#### SUBCONTRACTOR CERTIFICATE FOR PAYMENT

In accordance with the Subcontract Documents, based on on-site observations and the data comprising the application, subcontractor certifies to CMS Corporation that to the best of their knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Subcontractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED . . . . . \$0.00

*(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)*

CMS Corporation:

By: \_\_\_\_\_

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Subcontractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of CMS Corporation, or Subcontractor under this Subcontract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by CMS Corporation	\$0.00	\$0.00
Total approved this Month	\$0.00	\$0.00
<b>TOTALS</b>	<b>\$0.00</b>	<b>\$0.00</b>
NET CHANGES by Change Order	\$0.00	

**CMS Corporation - APPLICATION AND CERTIFICATION FOR PAYMENT**

**Email Pay Application, Lien Waiver and Invoice to ap@cmscorp.com**

**DRAFT COPY DUE TO PROJECT MANAGER NO LATER THAN 20TH OF EACH MONTH - WITH FINAL APPROVED DUE NO LATER THAN THE 25TH OF EACH MONTH**

**SUBCONTRACT APPLICATION AND CERTIFICATION FOR PAYMENT**

**Continuation Page**

SUBCONTRACTOR APPLICATION AND CERTIFICATION FOR PAYMENT, containing  
 Subcontractor's signed certification is attached.  
 In tabulations below, amounts are stated to the actual dollar.

APPLICATION NO: 0  
 APPLICATION DATE: 1/0/1900  
 PERIOD COVERED: From: To:  
 PROJECT NO: 22002.0020

A ITEM NO.	B Project Number	C DESCRIPTION OF WORK	D SCHEDULED VALUE	E WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G		H BALANCE TO FINISH (C - G)	I RETAINAGE RATE
				FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD		TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G ÷ C)		
1	22002.0020	Testing and Balancing	\$32,700.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00%	\$32,700.00	\$0.00
2			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
3			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
4			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
5			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
6			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
7			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
8			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
9			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
10			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
11			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
12			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
13			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
14			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
15			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
16			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
17			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
18			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
19			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
20			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
21			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
22			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
23			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
24			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
25			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
26			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!	\$0.00	\$0.00
<b>GRAND TOTALS</b>			\$32,700.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00%	\$32,700.00	\$0.00
Retainage this period					\$0.00					

Payment requested this period

\$0.00



SUBCONTRACT NO.: S14162 DATE: 25 April 2024 PROJECT NO.: 22002.0020  
 PRIME CONTRACT NO.: W912DY-22-D-0050 TO NO.: W912DY-23-F-0020

### APPLICATION FOR PAYMENT

A SEPARATE APPLICATION FOR PAYMENT MUST ACCOMPANY EACH INVOICE

PARTIAL PAYMENT
  FINAL PAYMENT

SUBCONTRACTOR INVOICE NO.: \_\_\_\_\_ INVOICE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

Job/Phase Number	Description	Subcontract Amount	Previous Paid	Current Invoice	Subcontract Balance
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

If the Subcontractor is using lower-tier Subcontractor(s) on this Job, complete the information below.

Lower Tier Subcontractor Name	Lower-Tier Subcontract Amount	Previous Paid	Current Due	Balance
Totals				

PAYMENT OF INVOICES WILL NOT BE MADE WITHOUT COMPLETED LIEN WAIVERS FOR EACH INVOICE SUBMITTED FOR PAYMENT AND FOR EACH LOWER-TIER SUBCONTRACTOR.  
 INVOICES ARE TO BE EMAILED TO:  
[ap@cmscorp.com](mailto:ap@cmscorp.com)  
 Failure to email invoices could result in a delay in payment.





**F437 Reporting Executive Compensation and First-Tier Subcontractor Awards Form**

**Instructions**

Subcontractors shall provide the following information within ten (10) days of subcontract award **greater than or equal to \$30,000** for the purpose of reporting information on subcontract awards in accordance with the reporting timeline required under Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252).

**Required Reporting**

All Prime Contractors must report:

- First-tier subcontractor awards or modifications on contracts expected to be valued at \$30,000 or more (including option contracts); and
- The names and total compensation of their five most highly compensated executives and the first-tier subcontractor(s) for the preceding completed fiscal year. This certification is required to be completed annually by all first-tier subcontractors.

The law requires all reported information be made public; therefore, we are notifying our subcontractors through the execution of this form that the required information will be made public. The information required hereunder shall be provided to us at such time as to enable us to report as required. Subcontractors shall be required to submit this form no **later than ten (10) days** from the subcontract award date listed below.

All Prime Contractors awarded a federal contract or task order that is subject to Federal Acquisition Regulation clause 52.204-10 (Reporting Executive Compensation and First-Tier Subcontract Awards) are required to file a FFATA sub-award report at <http://www.fjrs.gov> by the end of the month following the month in which the prime contractor awards any first tier subcontractor greater than \$30,000.

**Authorized Signature of Subcontractor**

By signing below, you acknowledge and agree that your certifications and responses below are true and correct:

Signature of Subcontractor's Authorized Representative: \_\_\_\_\_

Printed Name and Title of Representative: \_\_\_\_\_

**The Subcontractor must complete the following:**

Subcontractor Name: \_\_\_\_\_

Subcontractor's Unique Entity Identifier (UEI) (MANDATORY): \_\_\_\_\_

Subcontractor's Parent Company UEI DUNS Number (MANDATORY): \_\_\_\_\_

Subcontract Number (Assigned): \_\_\_\_\_

Subcontract Total Amount and Award Date: \_\_\_\_\_

**Subcontractor's physical location of business:**

**Subcontractor's project location for this subcontract:**

Street Address: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State: \_\_\_\_\_

City, State: \_\_\_\_\_

Zip Code, Country: \_\_\_\_\_

Zip Code, Country: \_\_\_\_\_

**Executive Compensation Reporting Requirement**

1. Subcontractor claims exemption(s) to the executive compensation reporting requirements for the preceding fiscal year by checking the appropriate box(es) below:



- Subcontractors that gross less than \$300,000 annually from all sources
- Classified solicitations/contracts and/or subcontracts
- Subcontract with individuals
- Subcontract issued and valued at less than \$25,000
- Subcontractors' below the first-tier level, despite income source or size of subcontract

If none of the above box(es) are checked, proceed to item number 2.

2. Subcontractor claims exemption to the executive compensation reporting requirements for the preceding fiscal year because:
- Subcontractors' annual gross revenue derived from federal contracts, subcontracts, loans, grants, and cooperative agreements is less than 80 percent of its total annual gross revenue for the preceding fiscal year AND;
  - Subcontractors' annual gross revenue derived from federal contracts, subcontracts, loans, grants, and cooperative agreements is less than \$25 million for the preceding fiscal year AND;
  - The public does have access to information about the compensation of senior executives through periodic reports filed under §13(a) or §15(d) of the Securities Exchange Act of 1934 or §6104 of the Internal Revenue Code of 1986.

If none of the above box(es) are checked, proceed to item number 3.

3. If no exemptions are claimed in items 1 or 2, the subcontractor is required to provide the names and total compensation of each of the five (5) most highly compensated officers for the calendar year in which the subcontract is awarded.

Executive Name	Total Compensation

IAW FAR 52.204-10(a) -Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information, see 17 CFR 229.402(c)(2)):

- (1) *Salary and bonus.*
- (2) *Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (revised 2004) (FAS 123R), Shared Base Payments.*
- (3) *Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization, or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.*
- (4) *Change in pension value. This is the change in the present value of defined benefit and actuarial pension plans.*
- (5) *Above-market earnings on deferred compensation are not tax-qualified.*
- (6) *Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, the value of life insurance paid on behalf of the employee, perquisites, or property) for the executive exceeds \$10,000.*

**For Office Use Only**

Prime Contract Number/Delivery Order: W912DY-22-D-0050 / W912DY-23-F-0020

TAS/Treasury Account Symbol: USACE Huntsville

Program or Project Title: MDA Building 2410 Barracks Renovation, Fort Bliss, TX

Scope of Work Performed: Testing and Balancing

**ATTACHMENT H**  
**PROJECT SCHEDULE**







