



USAID | BANGLADESH

FROM THE AMERICAN PEOPLE

Dhaka, Bangladesh

July 28, 2016

Dear Prospective Offeror:

Subject: Solicitation for retrofitting works of USAID Bangladesh's designated building.

The United States government, represented by the U.S. Agency for International Development (USAID), invites qualified companies to submit proposals to conduct retrofitting work at **USAID Bangladesh's** designated building.

The Request for Quotations (RFQ) consists of the following sections:

1. Standard Form SF-18
2. Detailed design of the retrofitting

You are encouraged to make your quote competitive. Also, you are cautioned against any collusion with other potential offerors in regard to price quotations to be submitted.

Questions and proposal submissions under this RFQ can sent to via email to dhakaprocedurement@usaid.gov. Your proposal must be accompanied by a **quotation**, copy of your business license, taxation registration and brief introduction letter about your company.

The award of a contract hereunder is subject to the availability of funds. Issuance of this RFQ does not constitute an award or commitment on the part of the U.S. Government, nor does it commit the U.S. Government to pay for costs incurred in the preparation and submission of a proposal. Quotations are due on August 30, 2016.

DESIGNATED OFFICE:

Executive Office
USAID/Bangladesh, Executive Office
U.S. Embassy
Madani Avenue, Baridhara
Dhaka-1212, Bangladesh
E-mail: dhakaprocedurement@usaid.gov.

We look forward to receiving your proposal and thank you in advance for your interest in USAID/Bangladesh procurement opportunities.

Sincerely,

Eric Adams
Supervisory Executive Officer

REQUEST FOR QUOTATIONS <i>(THIS IS NOT AN ORDER)</i>		THIS RFQ [] IS [x] IS NOT A SMALL BUSINESS- SMALL PURCHASE SET-ASIDE (52.219-4)			PAGE 2	OF 1	PAGES 23
1. REQUEST NO.	2. DATE ISSUED July 28, 2016	3. REQUISITION/PURCHASE REQUEST NO.	4. CERT. FOR NAT. DEF. UNDER BDSA REG. 2 AND/OR DMS REG. 1	RATING			
5A. ISSUED BY The Executive Office, USAID Bangladesh, US Embassy, Baridhara, Dhaka-1212			6. DELIVER BY (Date)				
5B. FOR INFORMATION CALL: (Name and telephone no.) (No collect calls)			7. DELIVERY				
NAME Saiful Islam – Procurement & Logistic Coordinator		TELEPHONE NUMBER		<input type="checkbox"/> FOB DESTINATION <input type="checkbox"/> OTHER (See Schedule)			
		AREA CODE	NUMBER 5566-2336				
8. TO:			9. DESTINATION				
a. NAME		b. COMPANY		a. NAME OF CONSIGNEE			
c. STREET ADDRESS			b. STREET ADDRESS				
d. CITY		e. STATE	f. ZIP CODE	c. CITY			
				d. STATE	e. ZIP CODE		
10. PLEASE FURNISH QUOTATIONS TO THE ISSUING OFFICE IN BLOCK 5A ON OR BEFORE CLOSE OF BUSINESS (Date) August 30, 2016		IMPORTANT: This is a request for information, and quotations furnished are not offers. If you are unable to quote, please so indicate on this form and return it to the address in Block 5A. This request does not commit the Government to pay any costs incurred in the preparation of the submission of this quotation or to contract for supplies or services. Supplies are of domestic origin unless otherwise indicated by quoter. Any representations and/or certifications attached to this Request for Quotations must be completed by the quoter					
11. SCHEDULE (Include applicable Federal, State and local taxes)							
ITEM NO. (a)	SUPPLIES/SERVICES (b)		QUANTITY (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	
X	Offer/Quote Solicitation for retrofitting work Please see attached for details.						
12 DISCOUNT FOR PROMPT PAYMENT		a. 10 CALENDAR DAYS %	b. 20 CALENDAR DAYS %	c. 30 CALENDAR DAYS %	d. CALENDAR DAYS		
					NUMBER	%	
NOTE: Additional provisions and representations [] are [] are not attached.							
13 NAME AND ADDRESS OF QUOTER			14 SIGNATURE OF PERSON AUTHORIZED TO SIGN QUOTATION		15 DATE OF QUOTATION		
a. NAME OF QUOTER							
b. STREET ADDRESS			16. SIGNER				
c. COUNTY			a. NAME (Type or print)			b. TELEPHONE	
d. CITY	e. STATE	f. ZIP CODE	c. TITLE (Type or print)			AREA CODE	
						NUMBER	

A. TITLE

Solicitation for Retrofitting work of USAID Bangladesh's designated building.

B. STATEMENT OF WORK/ DELIVERABLES

Introduction:

This scope of work is intended to describe the requirements for retrofitting work of a building named Poly Villa. A Seismic assessment has been made for mentioned building where the building has been marked as seismically deficient. To rectify the deficiency of the assessed building, detailed report on retrofitting design has been prepared which can be found at the later section of this document. In that report, area and place specific retrofitting design has been mentioned. Based on that report, a bill of quantity (BOQ) has been estimated where information on specification with required quantities are mentioned. The retrofitting work should be guided by those design and BOQ information.

Objective:

The objective of this work is to upgrade the existing building system to the level of high seismic efficiency as per the design provided for retrofitting so that, it can sustain earthquake threat or any hazardous calamities.

Building Description

The description of the building is based on the verification and data collection during the site visit:

Building name	Poly Villa Residence
Building Occupancy and Use	Residence
Terrain type	Flat land
Age of the building	21 Year
Type of structure	Reinforced Concrete Frame Building with brick masonry infill
Material Type:	
Concrete	Concrete is made up of brick aggregates instead of stone aggregates
Brick	Solid burnt clay bricks
Mortar	Cement mortar
Reinforcing Bar	Deformed steel reinforcing bars
No of stories	Three Storied
Plan configuration	Irregular
Vertical configuration	Irregular
Position of the building block	Freely standing
Building dimension	48'-1" x 66'-10" (refer drawing)
Storey height	8'-0" ground floor and 10'-0" remaining floors
Total Plinth Area	2670.0 Sq. ft. (refer drawing)
Foundation	Isolated Footing (As per structural drawing)
Wall thickness	10" & 5"
Building condition	Good and occupied
Local hazard	No possibilities of rock fall on the site. Not build on infill soil.

MAJOR WEAKNESSES REVEALED DURING EARTHQUAKES IN SIMILAR BUILDING TYPOLOGY

- Absence of ties in beam column joints
- Inadequate confinement near beam column joint
- Inadequate lap length and anchorage and splice at inappropriate position

- Low concrete strength
- Improperly anchored ties (90o hooks)
- Inadequate lateral strength and stiffness
- Irregularities in plan and elevation
- Irregular distribution of loads and structural elements

Other most common structural deficiencies are soft story, short column, strong beam-weak column connections, etc.

Suggested Method of Retrofitting:

Different options of possible retrofitting techniques are compared for the assessed building considering its structural details, building condition and possible failure patterns.

The inherent major deficiencies in the structure are:

- The building is irregular in plan.
- The placement of beams and columns are very haphazard.
- At many places, point loads exist due to resting of main beam on another main beam.
- There is a void in the slab in the living room for the purpose of providing double height in living room.
- The shear capacity of columns is not sufficient to resist the impending earthquake force.
- The stirrups in columns are placed far apart (9"-10" c/c) which does not meet the ductility criteria.
- Mezzanine floor (split level) has been created in the ground floor (living room).
- There is a presence of large cantilevered balcony in the front of the building. This balcony vibrates even on walking.

The study considered the structural system of the building, its major structural weakness and different available options of retrofitting. The following method is proposed for the building under study.

Following retrofitting strategies are adopted in this structure:

- Stiffness of the building is balanced by providing recess in the full length 230mm brick walls within frame to increase the mass model participation ratio in both directions.
- Some wing walls are added at strategic locations
- Reinforced concrete jacketing using GI Wire mesh from outside along the periphery of the building is done due to i) Maintain the building look as experienced from past retrofitting works in residential buildings. ii) Complex structural system. Though the building is considered as confined masonry system, distribution of walls are not proper with some rooms very large and placement of cross walls is not possible due to functional requirement. iii) improve strength, deformability and to reduce risk of disintegration, delaminating of walls.
- GI Wire Mesh Splint is provided in inner walls at critical locations to provide integrity in the vertical direction.
- GI Wire Mesh Bandage is provided in all inner walls as well as inner side of the outer wall for preventing out-of-plane failure of the walls.
- Vulnerable half brick walls built out of frame and on cantilevers are tied up.

These options are chosen with due consideration of architectural and socio-economic impact of the existing building structure. These methods are suggested only for life safety requirement.

Summary of Retrofit Design

Modifications (Refer structural drawing)	Addition of wing walls Closing of openings Tying of walls outside the main grid
Retrofitting of walls (Refer structural drawing)	a) GI Wire Mesh Jacketing in outer walls with 2.945 mm Ø bar @ 50 mm c/c in both directions. b) GI Wire Mesh Jacketing in outer wall (Grid B-B) with 3.66mm Ø bar @ 50 mm c/c in both directions. c) GI Wire mesh splint and bandage in inner walls with 2.945 mm Ø bar @ 50 mm c/c.
Miscellaneous (Refer structural drawing)	Addition of steel I-beam for large cantilevered balcony.
Foundation (Refer structural drawing)	RC tie beam/s

Detailed report of the retrofitting design is attached as Annexure.

WARRANTY:

After completion of total retrofitting work and handover the building to USAID Bangladesh's representatives, the contract will be liable to rectify any defect (if any) arises with one year of warranty time. Warranty period of one year will be counted from the date of handing over of the building.

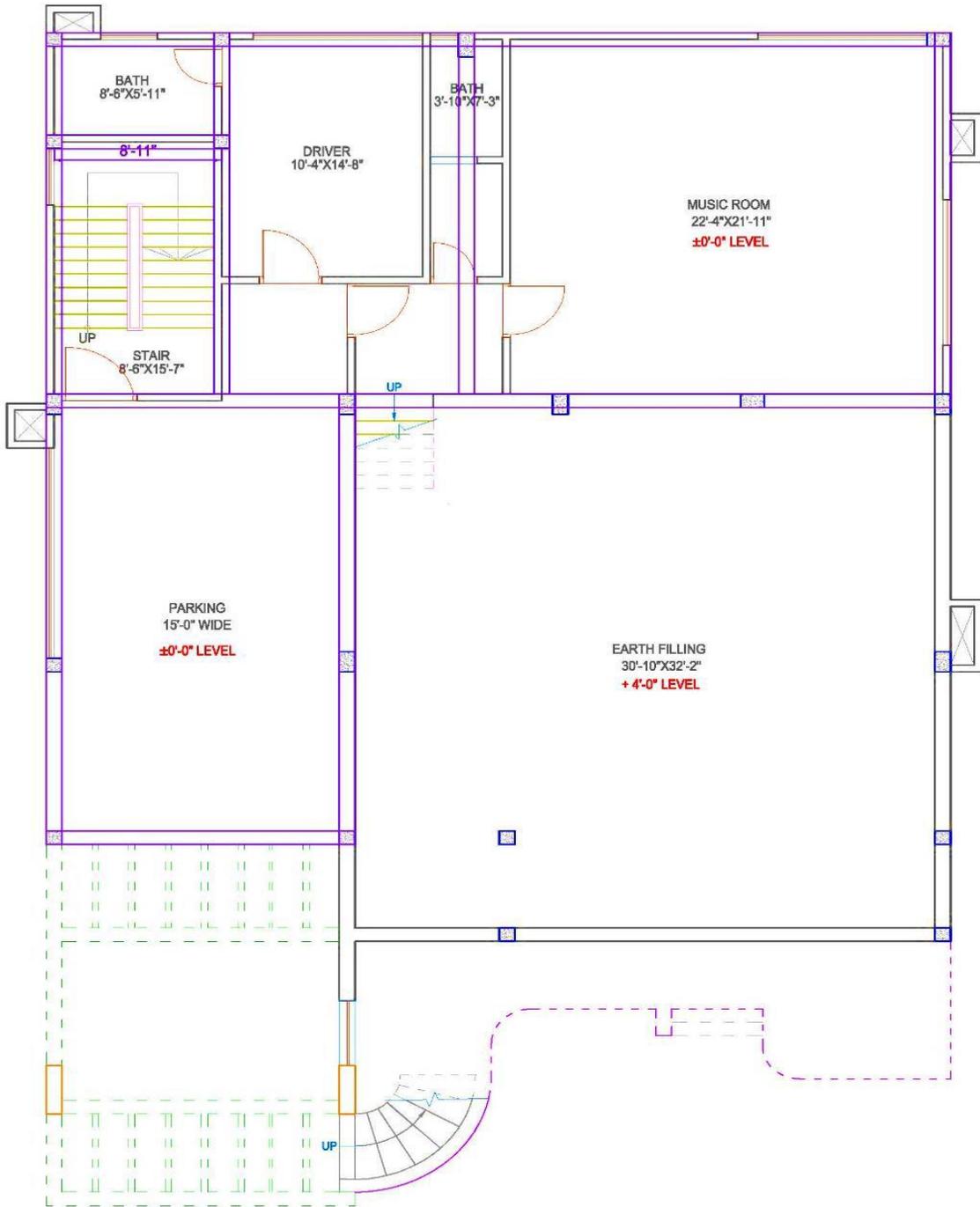


Figure: Typical floor plan

Summary of Cost Estimate

S.N.	Descriptions	Amount (BDT)
1	Site Preparation/ Protection/ Reinstatement/ Demolition Works	
1.1	Site Preparation	
1.2	Reinstatement works	
1.3	Demolition work	
Total of 1		
2	Civil Works	
2.1	Earthwork work	
3.2	PCC works	
2.2	Masonry works	
2.3	Concrete work	
2.4	Form works	
2.5	Steel for RCC works	
2.6	Anchoring works	
2.7	Plaster works	
2.8	Flooring works	
2.9	Wood Works	
2.10	Structural Steel Works	
Total of 2		
3	Maintenance Cost (water proofing)	
TOTAL COST		

Bill of Quantities

S.N.	Description	Unit	Quantity	Unit Rate	Amount
1.	Site preparation /Protection works				
1.1	Site Preparation	LS	1.00		
1.2	Providing and fixing the thick polythene sheet with adhesive tape and nail for protection of existing door/ window (that need not to remove during construction) including frame, shutters, security film and it's all fixtures by covering, including removing it after completion of the work and cleaning thoroughly all complete as original condition or as per instruction by the Engineer.	sqm	92.32		
1.3	Providing and fixing the thick polythene sheet for covering existing furniture and machineries (that need not to remove during construction) and removal after completion of the work and cleaning thoroughly all complete as original condition or as per instruction by the Engineer.	sqm	420.00		
2.	Reinstatement works				
2.1	Removing of existing door or window shutters and its fixtures (not frame), its safe storage before construction and reinstate it after retrofitting including cleaning and fixing, all complete as original condition or as per instruction by the Engineer.	nos	14.00		
3.	Demolition work				
3.1	Demolition of the existing brick masonry wall in cement mortar and disposing debris including, transportation of debris, cleaning the site etc. all complete as per drawing details, specification and instruction by the Engineer.	cum	13.40		
3.2	Demolition of existing P.C.C. on ground floor in perfect line, level and disposing the debris including transportation of debris, cleaning the site all complete as per drawing, specification and instruction by the Engineer.	cum	5.47		
3.3	Stripping off the existing cement plaster on the cement mortar masonry wall, raking out the cement mortar to a depth of 10 mm at joint, surface cleaning and disposing the debris including transportation, etc all complete as per drawing details, specification and instruction by the Engineer	sqm	863.41		
4	Earthwork work				
4.1	Excavation work: Earthwork in excavation in ordinary to mixed/hard soil in foundation including dressing of sides and proper compaction to trench bed, disposing of excess soil and filling in trenches by proper compaction after construction of structure all	cum	5.93		

	complete as per drawing, specification and instructions by the Engineer.				
4.2	Backfilling works: Earth work back filling: -Earth work backfilling with soft soil for foundation and other works by sprinkling water and hand compaction.	Cum	4.44		
5	Masonry works				
5.1	Good quality local chimney made brick work in cement sand mortar (1:4) in perfect line, level and finishing including, curing, raking out green mortar from joints and cleaning the brick face before stopping the work and proper bonding with existing masonry all complete as per drawing, specification and instruction by the Engineer.	cum	60.59		
5.2	Providing and lying flat brick soling with voids filled with sand in foundation in line and level all complete as per drawing, specification and instruction by the Engineer.	sqm	4.98		
6	PCC work				
6.1	PCC of 1:2:4 upto thickness of 50 mm including supply of materials, mixing, placing and pouring, compaction and curing etc. of specified thickness all complete.	Cum	0.25		
7	Concrete work				
7.1	Providing, mixing and laying P.C.C. in 1:1.5:3 ratios for foundation, flooring, beam with stone aggregate 20 mm down with proper compaction and completion to perfect line, level and finishing including proper curing all complete as per drawing, specification and instruction by the Engineer.	cum	1.12		
7.2	Providing, mixing and laying P.C.C. in 1:1.5:3 ratios for 40 mm thick micro concrete in jacketing on wall surface with stone aggregate below 10 mm with proper compaction and completion to perfect line, level and finishing including proper curing all complete as per drawing, specification and instruction by the Engineer.	cum	1.51		
8	Form works				
8.1	Providing, fitting and fixing standard formwork of shuttering plywood including all necessary metal/wooden props, bracing, wedges and nails etc. and careful removal of form works at approved time for all type of R.C.C. works all complete as per specification and instruction by the Engineer.	sqm	33.48		
9	Steel for RCC works				
9.1	Providing high strength deformed bars (HYSD) of grade Fe: 500 approved reinforcement confirming to IS: 1786 - 1985 for R.C.C work and approved bar bending schedule including straightening, cutting,	MT	0.29		

	bending, placing and binding in position by binding wires all complete as per drawing, specification and instruction by the Engineer.				
10	Anchoring works				
10.1	Providing, cutting, bending and laying 2mm dia GI wire in a hole of dia 10mm throughout the wall to anchor the G.I wire jacketing including drilling the holes with rotary drill, cleaning it with blow air and filling the hole by cement slurry upto finished level all complete as per drawing, specification and instruction by the Engineer.	nos	12226.00		
10.2	Providing, cutting, bending and laying 4.75 mm dia bar in a hole of dia 16mm on the wall to anchor including drilling the holes with rotary drill, cleaning it with blow air and filling by cement slurry by gravity flow all complete as per drawing, specification and instruction by the Engineer.	nos	112.00		
11	Plaster works				
11.1	Cement plaster works over on walls, with cement sand mix (1:4) and 12.5 mm thick or as per existing plaster thickness in perfect line, level and plumb, making grooves on boundary of existing plaster and new plaster including cleaning and wetting the surface and curing all complete as per specification and instruction by the Engineer.	sqm	863.41		
12	Flooring works				
12.1	Porcelain glazed tile work (somanoy or equivalent) with 1:4 cement sand mortar including supply of materials, laying, rubbing as per specification all complete.	sqm	18.08		
13	Wood works				
13.1	Supply, making and fixing of sal wood frame of good quality sal wood for doors, windows frame size 120 mm x 100 mm finished size as per drawing and specification all complete.	cum	0.64		
14	Structural Steel Works				
14.1	Supplying, making and fitting steel section with assembly for roofing as per drawings and specification all complete	kg	1086.84		
15	Water proofing Works	LS			
	Total cost				

VAT & TAX DEDUCTION:

USAID Bangladesh is a vat & tax exempted agency working for the development of Bangladesh. So, prospective bidders are requested not to include any VAT/TAX amount with the quoted amounts. No VAT & TAX will be deducted from the contract value during release of payment.

C. SUBMISSION DEADLINE:

Offers must be submitted to USAID Bangladesh by email to: dhakaprocurement@usaid.gov or by post/hand by close of business August 30, 2016

Hardcopy Submission Address:

Executive Office, Procurement Section
USAID/Bangladesh,
U.S. Embassy
Madani Avenue, Baridhara, Dhaka-1212, Bangladesh

D. PAYMENT TERMS

No advance payment will be provided. Payments against the work will be made in 04 segments as per below schedule:

- 1st Payment: 25% of the total contract value after completion of 30% work
- 2nd Payment: 25% of the total contract value after completion of 60% work
- 3rd Payment: 30% of the total contract value after completion of 100% work
- 4th Payment: 20% of the total contract value after 3 months of completion 100% work.

E. DURATION

Total work from the site preparation till getting out by cleaning the whole building after completion of all the mentioned work should be concluded within six months from order acceptance date. If any vendor presumed more time will be required, may mention their estimated completion time.

F. VENDOR/CONTRACTOR'S ELIGIBILITY:

The prospective contractors need to submit below documents as a proof of their eligibility:

- Valid trade license as a construction contractor
- Updated TIN certificate
- Experience documents of working in a single construction project of value over BDT 7,000,000
- Company profile with detailed information on resource persons.

G. EXECUTIVE ORDER ON TERRORISM FINANCING

The Contractor/Recipient is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the contractor/recipient to ensure compliance with these Executive Orders and laws. This provision must be included in all subcontracts/sub-awards issued under this contract/agreement.

H. AUTHORIZED GEOGRAPHIC CODE

The authorized geographic code for procurement of goods and service under this Purchase order is 937.

I. CONTRACT TERMS AND CONDITIONS -- COMMERCIAL ITEMS (FEB 2012)

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights --

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C.3727). However, when a third party makes payment (*e.g.*, use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice.*

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include --

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, contract line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (*e.g.*, 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) *Patent indemnity*. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payment.

(1) Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) Prompt Payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR Part 1315.

(3) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount*. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments*. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) Interest.

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) Final decisions. The Contracting Officer will issue a final decision as required by 33.211 if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of loss.* Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title.* Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability.* Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, *et seq.*, Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (1) The schedule of supplies/services.
- (2) The Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause.
- (3) The clause at 52.212-5.
- (4) Addenda to this solicitation or contract, including any license agreements for computer software.
- (5) Solicitation provisions if this is a solicitation.
- (6) Other paragraphs of this clause.
- (7) The Standard Form 1449.
- (8) Other documents, exhibits, and attachments.
- (9) The specification.

(t) Central Contractor Registration (CCR).

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to:

(A) Change the name in the CCR database;

(B) Comply with the requirements of Subpart 42.12 of the FAR;

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via CCR accessed through <https://www.acquisition.gov> or by calling 1-888-227-2423, or 269-961-5757.

J. NOTICE LISTING CLAUSES INCORPORATED BY REFERENCE

N/A

FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)

NUMBER	TITLE	DATE
52.203-2 1985	CERTIFICATE OF INDEPENDENT PRICE DETERMINATION	APR
52-203-3 1984	GRATUITIES	APR
52-203-13 2010	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT	APR
52-204-10 2012	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS	AUG
52.207-1 2006	NOTICE OF STANDARD COMPETITION	MAY
52.209-10	PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS 2012	MAY
52.212-4 2010	CONTRACT TERMS AND CONDITIONS	JUN
52.212-5 2010	CONTRACT TERMS AND CONDITIONS REQUIRED	OCT
52.222-1 1997	TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS COMMERCIAL ITEMS NOTICE TO THE GOVERNMENT OF LABOR DISPUTES	FEB
52.222-3 2002	CONVICT LABOR	JUNE
52.222-19 2010	CHILD LABOR – COOPERATION WITH AUTHORITIES AND REMEDIES	JUL
52.222-21 1999	PROHIBITION OF SEGREGATED FACILITIES	FEB
52.222-26 2007	EQUAL OPPORTUNITY	MAR
52.222-35 2010	EQUAL OPPORTUNITY FOR VETERANS	SEP
52.222-36 2010	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES	OCT
52.223-18 2010	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING	SEP
52.225-13 2008	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES DISABILITIES	JUN
52-239-1 1996	PRIVACY OR SECURITY SAFEGUARDS	AUG
52.247-64 2006	PREFERENCE FOR PRIVATELY OWNED U.S FLAG COMMERCIAL VESSEL	FEB
52.222-53 2009	EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACTS FOR CERTAIN SERVICES – REQUIREMENTS	FEB

52.213-4 2009	TERMS AND CONDITIONS –SIMPLIFIED ACQUISITION	FEB
52.222-1 1997	NOTICE TO THE GOVERNMENT OF LABOR LABPR DISPUTES	FEB
52.222-42 1989	STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRE	MAY
52.222-6 2001	DRUG FREE WORKPLACE	MAY
52.232-23 1986	ASSIGNMENT OF CLAIMS	JAN
52.233-4 2004	APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM	OCT
52.237-1 1984	SITE VISIT	APR
52.237-2 1984	PROTECTION OF GOVERNMENT BUILDING, EQUIPOMENTS AND VEGETATION	APR
52.243-1 1987	CHANGES- FIXED PRICE ALTERNATE	AUG

K. NOTICE LISTING CLAUSES INCORPORATED BY REFERENCE

The following clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) . The internet address to view the full text of the AIDAR is <http://www.usaid.gov/ads/300/aidar.pdf>

NUMBER	TITLE	DATE
752.202-1 1986	USAID DEFINITIONS CLAUSE – SUPPLEMENT FOR USAID	DEC
752.209-71 1993	CONTRACTS INVOLVING PERFORMANCE OVERSEAS ORGANIZATGION CONFLICT OF INTEREST DISCOVERED AFTER AWARD	JUN
752.211-70 1992	LANGUAGE AND MEASUREMENT	JUN
752.225-70 1997	SOURCE ORIGIN AND NATIONALITY REQUIREMENTS	FEB
752.225-71 1997	LOCAL PROCUREMENT	FEB
752.7002 1990	TRAVEL AND TRANSPORTATION	JAN
752.227-14 2007	RIGHTS IN DATA – GENERAL	OCT
752.228-70 2007	MEDICAL EVACUATION (MEDVAC) SERVICES	JUL
752.7008 1984	USE OF GOVERNMENT FACILITIES OR PERSONNEL	APR
752.7010 1984	CONVERSION OF U.S DOLLARS TO LOCAL CURRENCY	APR
752.7013 1989	CONTRACTOR-MISSION RELATIONSHIP	OCT
752.7025 1984	APPROVALS	APR

752.7027 1990	PERSONNEL	DEC
752.7009 1993	MARKING	JAN
752.7032 1990	INTERNATIONAL TRAVEL APPROVAL AND NOTIFICATION REQUIREMENTS	JAN
752.7033 1997	PHYSICAL FITNESS	JULY

L. CONTRACT CLAUSES

52.212-4, CONTRACT TERMS AND CONDITIONS -- COMMERCIAL ITEMS, BY REFERENCE

52.202-1	DEFINITIONS
52.203-5	COVENANT AGAINST CONTINGENT FEES
52-203-7	ANTI-KICKBACK PROCEDURES
52-203-8	CANCELLATION, RESCISSION AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY
52.212-2	EVALUATION
52.212-5	CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUES AND EXECUTIVE ORDERS
52.216-24	LIMITATION OF GOVERNMENT LIABILITY
52-216-25	CONTRACT DEFINITIZATION
52.223-18	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES
52.225-25	PROHIBITION TO CONTRACTING WITH ENTITIES ENGAGING IN SANCTIONED ACTIVITIES RELATING TO IRAN – REPRESENTATION AND CERTIFICATION
52.229-6	TAXES – FOREIGN FIXED-PRICE CONTRACTS
52.232-25	PROMPT PAYMENT
52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION
52.233-2	SERVICE OF PROTEST
52.233-3	PROTEST AFTER AWARD
52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS
52.247.63	PREFERENCE FOR US-FLAG AIR CARRIERS

M. SUBPART 12.4 -- UNIQUE REQUIREMENTS REGARDING TERMS AND CONDITIONS FOR COMMERCIAL ITEMS

12.401 -- GENERAL.

This subpart provides --

(a) Guidance regarding tailoring of the paragraphs in the clause at [52.212-4](#), Contract Terms and Conditions -- Commercial Items, when the paragraphs do not reflect the customary practice for a particular market; and

(b) Guidance on the administration of contracts for commercial items in those areas where the terms and conditions in [52.212-4](#) differ substantially from those contained elsewhere in the FAR.

12.402 -- ACCEPTANCE.

(a) The acceptance paragraph in [52.212-4](#) is based upon the assumption that the Government will rely on the contractor's assurances that the commercial item tendered for acceptance conforms to the contract requirements. The Government inspection of commercial items will not prejudice its other rights under the acceptance paragraph. Additionally, although the paragraph does not address the issue of rejection, the Government always has the right to refuse acceptance of nonconforming items. This paragraph is generally appropriate when the Government is acquiring noncomplex commercial items.

(b) Other acceptance procedures may be more appropriate for the acquisition of complex commercial items or commercial items used in critical applications. In such cases, the contracting officer shall include alternative inspection procedure(s) in an addendum and ensure these procedures and the post award remedies adequately protect the interests of the Government. The contracting officer must carefully examine the terms and conditions of any express warranty with regard to the effect it may have on the Government's available post award remedies (see [12.404](#)).

(c) The acquisition of commercial items under other circumstances such as on an "as is" basis may also require acceptance procedures different from those contained in [52.212-4](#). The contracting officer should consider the effect the specific circumstances will have on the acceptance paragraph as well as other paragraphs of the clause.

12.403 -- TERMINATION.

(a) *General.* The clause at [52.212-4](#) permits the Government to terminate a contract for commercial items either for the convenience of the Government or for cause. However, the paragraphs in [52.212-4](#) entitled "Termination for the Government's Convenience" and "Termination for Cause" contain concepts which differ from those contained in the termination clauses prescribed in Part 49. Consequently, the requirements of Part 49 do not apply when terminating contracts for commercial items and contracting officers shall follow the procedures in this section. Contracting officers may continue to use Part 49 as guidance to the extent that Part 49 does not conflict with this section and the language of the termination paragraphs in [52.212-4](#).

(b) *Policy.* The contracting officer should exercise the Government's right to terminate a contract for commercial items either for convenience or for cause only when such a termination would be in the best interests of the Government. The contracting officer should consult with counsel prior to terminating for cause.

(c) *Termination for cause.*

(1) The paragraph in [52.212-4](#) entitled "Excusable Delay" requires contractors notify the contracting officer as soon as possible after commencement of any excusable delay. In most situations, this requirement should eliminate the need for a show cause notice prior to terminating a contract. The contracting officer shall send a cure notice prior to terminating a contract for a reason other than late delivery.

(2) The Government's rights after a termination for cause shall include all the remedies available to any buyer in the marketplace. The Government's preferred remedy will be to acquire similar items from another contractor and to charge the defaulted contractor with any excess re-procurement costs together with any incidental or consequential damages incurred because of the termination.

(3) When a termination for cause is appropriate, the contracting officer shall send the contractor a written notification regarding the termination. At a minimum, this notification shall --

(i) Indicate the contract is terminated for cause;

(ii) Specify the reasons for the termination;

(iii) Indicate which remedies the Government intends to seek or provide a date by which the Government will inform the contractor of the remedy; and

(iv) State that the notice constitutes a final decision of the contracting officer and that the contractor has the right to appeal under the Disputes clause (see [33.211](#)).

(4) The contracting officer, in accordance with agency procedures, shall ensure that information related to termination for cause notices and any amendments are reported. In the event the termination for cause is subsequently converted to a termination for convenience, or is otherwise withdrawn, the contracting officer shall ensure that a notice of the conversion or withdrawal is reported. All reporting shall be in accordance with [42.1503\(f\)](#).

(d) *Termination for the Government's convenience.*

(1) When the contracting officer terminates a contract for commercial items for the Government's convenience, the contractor shall be paid --

(i) (A) The percentage of the contract price reflecting the percentage of the work performed prior to the notice of the termination for fixed-price or fixed-price with economic price adjustment contracts, or

(B) An amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rates(s) in the Schedule; and

(ii) Any charges the contractor can demonstrate directly resulted from the termination. The contractor may demonstrate such charges using its standard record keeping system and is not required to comply with the cost accounting standards or the contract cost principles in Part 31. The Government does not have any right to audit the contractor's records solely because of the termination for convenience.

(2) Generally, the parties should mutually agree upon the requirements of the termination proposal. The parties must balance the Government's need to obtain sufficient documentation to support payment to the contractor against the goal of having a simple and expeditious settlement.

12.404 -- WARRANTIES.

(a) *Implied warranties.* The Government's post award rights contained in [52.212-4](#) are the implied warranty of merchantability, the implied warranty of fitness for particular purpose and the remedies contained in the acceptance paragraph.

(1) The implied warranty of merchantability provides that an item is reasonably fit for the ordinary purposes for which such items are used. The items must be of at least average, fair or medium-grade quality and must be comparable in quality to those that will pass without objection in the trade or market for items of the same description.

(2) The implied warranty of fitness for a particular purpose provides that an item is fit for use for the particular purpose for which the Government will use the items. The Government can rely upon an implied warranty of fitness for particular purpose when--

(i) The seller knows the particular purpose for which the Government intends to use the item; and

(ii) The Government relied upon the contractor's skill and judgment that the item would be appropriate for that particular purpose.

(3) Contracting officers should consult with legal counsel prior to asserting any claim for a breach of an implied warranty.

(b) *Express warranties.* The Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 264 note) requires contracting officers to take advantage of commercial warranties. To the maximum extent practicable, solicitations for commercial items shall require offerors to offer the Government at least the same warranty terms, including offers of extended warranties, offered to the general public in customary commercial practice. Solicitations may specify minimum warranty terms, such as minimum duration, appropriate for the Government's intended use of the item.

(1) Any express warranty the Government intends to rely upon must meet the needs of the Government. The contracting officer should analyze any commercial warranty to determine if --

(i) The warranty is adequate to protect the needs of the Government, *e.g.*, items covered by the warranty and length of warranty;

(ii) The terms allow the Government effective post award administration of the warranty to include the identification of warranted items, procedures for the return of warranted items to the contractor for repair or replacement, and collection of product performance information; and

(iii) The warranty is cost-effective.

(2) In some markets, it may be customary commercial practice for contractors to exclude or limit the implied warranties contained in [52.212-4](#) in the provisions of an express warranty. In such cases, the contracting officer shall ensure that the express warranty provides for the repair or replacement of defective items discovered within a reasonable period of time after acceptance.

(3) Express warranties shall be included in the contract by addendum (see [12.302](#)).

N. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) FULL TEXT CLAUSES

Not applicable