

<b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS</b> <b>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, &amp; 30</b>				1. REQUISITION NUMBER 23NET0102		PAGE OF 1 95	
2. CONTRACT NO.		3. AWARD/ EFFECTIVE DATE	4. ORDER NUMBER		5. SOLICITATION NUMBER 70LGLY23QSSB00163		6. SOLICITATION ISSUE DATE 09/11/2023
7. <b>FOR SOLICITATION INFORMATION CALL:</b>		a. NAME John Bennett			b. TELEPHONE NUMBER (No collect calls) 912-267-3887		8. OFFER DUE DATE/LOCAL TIME 09/18/2023 1630 ET
9. ISSUED BY CODE 70LGLY  DEPARTMENT OF HOMELAND SECURITY FEDERAL LAW ENFORCEMENT TRAINING CENTERS 1131 CHAPEL CROSSING RD John Bennett GLYNCO GA 31524				10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED OR <input checked="" type="checkbox"/> SET ASIDE: % FOR: <input checked="" type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS WOMEN-OWNED SMALL BUSINESS <input type="checkbox"/> (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> EDWOSB <input type="checkbox"/> 8(A) NAICS: 238210 SIZE STANDARD: \$19			
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE		12. DISCOUNT TERMS		13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>		13b. RATING	
15. DELIVER TO CODE  DEPARTMENT OF HOMELAND SECURITY FEDERAL LAW ENFORCEMENT TRNG CTR 2000 Bainbridge Ave Charleston SC 29405-2607		16. ADMINISTERED BY CODE 70LGLY  DEPARTMENT OF HOMELAND SECURITY FEDERAL LAW ENFORCEMENT TRAINING CENTERS 1131 CHAPEL CROSSING RD John Bennett GLYNCO GA 31524		14. METHOD OF SOLICITATION <input checked="" type="checkbox"/> RFQ <input type="checkbox"/> IFB <input type="checkbox"/> RFP			
17a. CONTRACTOR/ OFFEROR CODE		FACILITY CODE		18a. PAYMENT WILL BE MADE BY CODE			
TELEPHONE NO.				18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>							
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	2023 FLETC Operation and Support 70 0509  Firm Fixed Price  All questions concerning this solicitation shall be submitted via email no later than 09/15/2023 to john.g.bennett@fletc.dhs.gov The subject of the email must contain "Question - SOLICITATION NUMBER [Offeror Name] 70LGLY23QSSB00163." Questions received after this date and time may not be answered prior to the closing date/time <i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>						
25. ACCOUNTING AND APPROPRIATION DATA						26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED. <input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.							
<input checked="" type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>1</u> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED.				<input type="checkbox"/> 29. AWARD OF CONTRACT: _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)			
30b. NAME AND TITLE OF SIGNER (Type or print)		30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER (Type or print)		31c. DATE SIGNED	
				John G. Bennett			

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	<p>for receipt of responses.</p> <p>We are pleased to announce that site visits are scheduled to take place on September 14, 2023, from 1:00 pm to 4:00 pm. The point of contact for the site visit will be Mr. Ed Burkett, who can be reached via email at Edward.Burkert@fletc.dhs.gov. (843)746-3333. Mr. Burkett will be available to provide guidance during the visit.</p> <p>Offerors shall provide a statement of compliance with FAR 52.222-50, Combating Trafficking in Persons, requirements and confirm subcontractors will accomplish a statement of compliance upon award.</p>				
0001	<p>Materials for Replacement Batteries at Bldg. 16</p> <p>Per Task 1</p> <p>Of Attached SOW.</p> <p>Delivery: 30 Days After Award</p>	1	EA		
0002	<p>Install Replacement Batteries at Bldg. 16 Per</p> <p>Task 2 of</p> <p>Attached SOW.</p> <p>Delivery: 45 Days After Award</p>	1	EA		

32a. QUANTITY IN COLUMN 21 HAS BEEN

☐ RECEIVED    ☐ INSPECTED    ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: \_\_\_\_\_

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE		32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE			32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
			32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT	37. CHECK NUMBER
<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL			<input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	
38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY		
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT			42a. RECEIVED BY ( <i>Print</i> )	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		41c. DATE	42b. RECEIVED AT ( <i>Location</i> )	
			42c. DATE REC'D (YY/MM/DD)	42d. TOTAL CONTAINERS

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**A - Solicitation/Contract Form See SF1449**

**I. GENERAL INFORMATION**

**a. Submission of Written Questions**

All questions concerning this solicitation shall be submitted via email no later than 09/15/2023 to [john.g.bennett@fletc.dhs.gov](mailto:john.g.bennett@fletc.dhs.gov). The subject of the email must contain "Question – SOLICITATION NUMBER [Offeror Name] 70LGLY23QSSB00163." Questions received after this date and time may not be answered prior to the closing date/time for receipt of responses.

**b. We are pleased to announce that site visits are scheduled to take place on September 14, 2023, from 1:00 pm to 4:00 pm. This visit is an integral part of our solicitation process and aims to provide potential bidders with an opportunity to gain a comprehensive understanding of the project site.**

The point of contact for the site visit will be Mr. Ed Burkett, who can be reached via email at [Edward.Burkert@fletc.dhs.gov](mailto:Edward.Burkert@fletc.dhs.gov). (843)746-3333. Mr. Burkett will be available to provide guidance during the visit.

Please note that attendance at the site visit is not mandatory. It will offer valuable insights into the project's scope, conditions, and any potential challenges.

Location details and any specific instructions regarding the meeting point for the site visit will be provided by Mr. Ed Burkett.

**c. Fill out the DHS Form Nondisclosure Closure entirely and then submit it along with your bid.**

**B - Supplies or Services/Prices See SF1449**

## **C - Description/Specifications**

### **SCOPE OF WORK (SOW) FOR FEDERAL LAW ENFORCEMENT TRAINING CENTER (FLETC) REPLACEMENT OF SYMMETRA PX 80kW BATTERY MODULES AT Building 16 at Charleston, SC.**

#### **1. Background**

The FLETC has selected APC UPS units to maintain and manage power to protect critical enterprise systems at each FLETC location. These systems ensure critical network components and systems remain online even in the event of a total power outage to allow for information to be saved or recovery until commercial power has been restored. As these systems help ensure the required high availability of enterprise network systems and resources.

#### **2. Scope**

This purchase shall provide, deliver and install Uninterruptible Power Supply (UPS) replacement batteries for the APC UPS systems in buildings 16 (Data Center) at Charleston, SC.

The Contractor must be an APC Certified Service Provider with access to OEM diagnostics tools and parts. The Contractor shall diagnose and repair equipment to APC standards and specifications using OEM approved equipment.

All OEM technical support and replacement OEM parts shall be provided by the Contractor and conducted with the use of Contractor supplied labor, tools and/or equipment necessary to complete the job satisfactorily at no additional costs. No travel costs for visits by the Contractor to any FLETC site will be paid under this contract.

#### **3. Description of Tasks and Deliverables**

##### **3.1 Task 1: Purchase of Modular Battery Replacement Service**

The contractor shall provide and ship the following hardware to FLETC Charleston, SC (see full address in Section 7.0 below).

Item #	Manuf. Part #	QTY	Description
1	WMBRS8-MB-T4	8	Modular Battery Replacement Service 8 X SYBT 4

##### **3.1 Task 2: Onsite Installation, Removal and Disposal of Old Batteries**

3.1.1 The Contractor shall remove 8 rows of old battery modules from Symmetra PX 80kW Frame 208V (SN. ED0435000640).

3.1.2 The Contractor shall install the eight (8) rows of APC WMBRS8-MB-T4 modular replacement batteries units from Task 1.

3.1.3 The Contractor shall transport old batteries from section 3.1.1 offsite and properly dispose of them per Federal, State, and Local Government guidelines.

## **6. CONTRACT TYPE**

This contract shall be firm fixed price. No travel expenses will be paid on this contract.

## **7. PLACE OF PERFORMANCE**

The location below will be the delivery address of deliverables and performance address of work identified in this SOW. The contact names listed is the government on-Site IT Specialist. The contractor shall coordinate with the government onsite IT Specialist or other provided points of contact when onsite access or assistance is required.

Department of Homeland Security  
Federal Law Enforcement Training Center  
2000 Bainbridge Ave  
Building 16  
Charleston, SC 28405-2607  
Attn: Ed Burkert  
Office (843) 746-3333

## **8. PERIOD OF PERFORMANCE**

The Contractor shall complete Task 1 within 30 days of the contract award date. The Contractor shall complete Task 2 and 3 within 45 days of the contract award date.

**H – FLETC Statements**  
**DIRECTIVES, REGULATIONS, AND INSTRUCTIONS (JUL 2013)**

- a. The Contractor, its personnel, subcontractors, their personnel, and representatives shall become acquainted with and fully comply at all times with the Federal Law Enforcement Training Centers (FLETC) Regulations, Directives, and Instructions. Any individual shall be subject to removal from the Center for noncompliance.
- b. In the event of a conflict between this contract and any FLETC Directive, Regulation or Instruction the contract prevails.

**H.1 OPERATION ON THE FACILITY (JUL 2013)**

**H.1.1 Safety**

- a. The Contractor shall conduct the operation(s) under this contract in strict conformance with all FLETC safety directives and Federal, State, and local requirements and with all applicable provisions of 29 CFR Part 1910 and 1926 of the Occupational Safety and Health Act (OSHA).
- b. The Contractor shall conform to all safety rules and requirements in effect on the award date of this contract and shall take such additional precautions as the Contracting Officer (CO) may reasonably require for safety and accident prevention purposes while performing any work under this contract. The Contractor agrees to take all reasonable steps and precautions to prevent accidents and preserve the life and health of Contractor and Government personnel performing in any way under this contract.
- c. The Contractor shall make contract personnel available for Government furnished safety and occupational training for an estimate of two (2) hours to four (4) hours annually per individual. Government furnished training may include Quality, Safety and Occupational requirements.

**H.1.2 Accident Reports**

Within 24-hours of occurrence, the Contractor shall prepare a report of all job-related accidents and injuries occurring on FLETC property. The Contractor shall deliver the report to the Contracting Officer Representative (COR). The Contractor shall maintain an accurate record of all accidents resulting in personal injury, death, trauma, or occupational illness or disease; exposure to hazardous materials (asbestos, lead, etc); and, all injuries reported on the Occupational Safety and Health Administration (OSHA) Form 300, Log of Work-Related Injuries and Illnesses.

**H.1.3 Occupational Hazards**

The Contractor shall comply with all elements of OSHA Safety and Health Standards and the FLETC Safety and Health Directives.

**H.1.4 Fire Prevention**



Contract personnel shall report fires immediately upon detection. The Contractor shall observe all OSHA, FLETC, and National Fire Prevention Association (NFPA) requirements for handling and storage of combustible supplies, materials, waste, and trash. If combustible materials are to be stored on the premises, the Contractor shall obtain Government approval, label the containers with the fire hazard potential of the materials and store the containers in fire-rated locking metal cabinets.

#### **H.1.5 Traffic Regulations**

Contractor and subcontractor personnel operating motor vehicles on the FLETC shall observe traffic regulations and posted speed limits except as defined elsewhere in this contract. The only exception to posted speed limits is passing jogging formations, when speed shall be reduced to 15 mph. Traffic laws are enforced on the Center and violations shall be assessed penalty points, which can result in revocation of driving privileges on Center.

#### **H.1.6 Weapons**

Contractor and subcontractor personnel are not permitted to bring privately owned firearms, weapons, or ammunition on the Center. This restriction includes handguns, rifles, shotguns, hunting bow and arrows, etc. All privately owned firearms, weapons, and ammunition must be surrendered/checked in at the main gate upon entry to the FLETC.

#### **H.1.7 Supervision of Contractor Personnel**

The Contractor's personnel shall remain under the Contractor's direct supervision at all times. Although the Government will coordinate direction within the scope of the contract, detailed instructions for the Contractor's personnel's performance and supervision shall remain the sole responsibility of the Contractor.

### **H.2 MEDICAL TREATMENT**

a. Only emergency medical care is available in Government facilities to Contractor personnel who suffer on-the-job injury. The Government will NOT perform physical examinations on Contractor personnel except as specified elsewhere in this contract. Government emergency vehicles and medical personnel may be used as the first point of treatment in emergency situations affecting Contractor personnel suffering pain or whose life or limb may be in danger.

b. Transfer to other than Government medical treatment facilities shall be affected by the Local Rescue Squad or Security Vehicle as determined necessary by attending medical authorities. The Contractor shall render payment for care at the rates established by the CO as equitable with like services rendered in the local community. Upon receipt of a statement of charges, reimbursement will be made by the Contractor as a credit to the next billing invoice. Cost of these emergency services shall be incurred and borne by the Contractor as non-reimbursable by the Government.

### **H.3 SUBCONTRACTING**

The Government reserves the right to approve or disapprove subcontractors for any work required by this contract. The Contractor shall obtain the CO's written approval of all subcontractors and provide copies of approved subcontracts.

#### **H.4 ORDER OF WORK**

The Contractor shall arrange the work so that it will not cause interference with the normal conduct of Government business or with the progress of other Contractors' projects. The Contractor shall submit all work schedules for approval by the COR. The Contractor shall adhere to the established schedules.

#### **H.5 OTHER CONTRACTS**

The Government may award third party contracts for additional work at or near the site of work under this contract. The Contractor shall fully cooperate with the other contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the CO. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Government employees.

#### **H.6 DISRUPTION OF CONTRACTOR WORK SCHEDULE**

The Contractor shall promptly notify the CO and the COR when it appears that Government activities or personnel or other contractor's projects are hindering the effective execution of its work efforts.

#### **H.7 RIGHTS OF THE GOVERNMENT TO PERFORM FUNCTIONS WITH ITS OWN PERSONNEL**

- a. The Government reserves the right to perform or supplement performance of contract functions with Government personnel during periods of disaster, war emergencies, police actions, or acts of God. Such performance shall not constitute a breach of contract by the Government within the meaning of the contract clause entitled "Default".
- b. The Contractor agrees under such circumstances to permit the Government to use any essential Contractor-furnished property. The Government will equitably compensate the Contractor for use of such property.

#### **H.8 GOVERNMENT PERFORMANCE OF SERVICES DURING LABOR STRIKES**

- a. Because the services called for under this contract are of critical importance to the FLETC, the Government reserves the right to take over or supplement performance of this contract in the event of a labor strike by the Contractor's personnel which impairs the Contractor's ability to satisfactorily perform the contract. Under such circumstances and at the direction of the CO, the Contractor agrees not to interfere in any way with Government performance. The Contractor further agrees under such circumstances to

permit the Government to use any essential contractor-furnished property. The Government will equitably compensate the Contractor for use of such property.

b. The Contractor will not be entitled to payment for any performance period, in part or in total, during which the Government assumes performance under this clause. This clause does not limit the Government's rights under any other clause of this contract, including but not limited to, "Default (Fixed-Price Supply and Services)", "Termination for Convenience of the Government (Fixed-Price)", and "Inspection of Services-Fixed-Price."

## **H.9 CONSERVATION**

Contractor and subcontractor personnel shall actively participate in all energy conservation efforts and programs applicable to work performed under this contract. The Contractor shall instruct its personnel and subcontractors in utilities conservation policies.

## **H.10 LABOR RELATIONS**

a. The Contractor shall maintain satisfactory labor relations with its personnel. Representatives of the Contracting Office will not participate in labor relation matters unless disputes develop that interfere with the proper performance of the contract, at which time the representative may endeavor to assist in settling the difficulty.

b. The Contractor shall provide the CO with a copy of any collective bargaining agreement applicable to personnel performing on this contract.

## **H.11 - RESERVED**

## **H.12 PHOTOGRAPHY**

No photography, of any nature, is allowed while on the FLETC without the written authorization of the CO. Submit photography requests to the CO at least two (2) business days prior to anticipated photo session.

## **H.13 CONDUCT OF PERSONNEL**

The CO may require the Contractor to remove from the job site any individual under this contract for reasons of misconduct, security, suspected or found to be under the influence of alcohol, drugs, or other incapacitating agent. Contractor and subcontractor personnel shall be subject to dismissal from the premises upon determination by the CO that such action is in the best interests of the Government. The CO has the authority to bar individuals from the installation. Such removal from the job site or dismissal from the premises shall not relieve the Contractor of the requirement to provide sufficient personnel to perform the services as required by this performance work statement.

## **H.14 CONTRACTOR VEHICLES**

a. All Contractor vehicles operated on Government property shall be in operable condition, maintained in good repair, and meet all local, State and Federal safety

requirements. Vehicles found to be unsafe or unable to function as designed shall be removed from the job site immediately. Each vehicle operated by the Contractor under this contract shall, at all times, display a valid state license plate and safety inspection sticker, if applicable.

b. All Contractor vehicles shall be operated in accordance with the FLETC traffic regulations.

c. Should a vehicle fail to meet the standards, the Contractor shall be liable of any resultant delays (including jeopardizing their performance report rating on contract schedules).

d. The Contractor's name and telephone number shall be conspicuously legible on both sides of all Contractor vehicles and over-the-road equipment.

#### **H.15 PERMITS**

a. The Contractor shall without additional expense to the Government obtain all appointments, licenses, and permits required for the prosecution of the work and for compliance with all applicable Federal, State and local laws, regulations, and codes. Evidence of such shall be provided to the CO upon request.

b. The Contractor shall ensure that all Contractor personnel who will be driving a vehicle in support of this contract possess required license, prior to driving that vehicle. This specifically includes personnel operating FLETC Government owned vehicles in the performance of roles.

#### **H.16 ENVIRONMENTAL PROTECTION**

The Contractor shall comply with all applicable environmental protection requirements including all Federal, State and local laws and regulations. All environmental protection matters shall be coordinated with the CO or designated representative. In the event that a regulatory agency assesses a monetary fine against the Government for violations caused by the Contractor, or contractor equipment, personnel, etc., the Contractor shall reimburse the Government for that portion of the fine and associated costs for which the Contractor is responsible.

#### **H.17 ACCESS TO BUILDINGS**

It shall be the Contractor's responsibility, through the COR, to obtain access to buildings and to arrange for each room/area to be opened and closed as necessary in performance of contract requirements. The Contractor shall be responsible for safeguarding all Government property and securing facilities, equipment, and materials at the end of each work period.

#### **H.18 KEY CONTROL**

a. Keys to include keyless entry cards or other similar control devices will be issued to the Contractor as appropriate. The Contractor shall receive, service, and account for all keys issued for use in the performance of this contract. The Contractor shall develop a

system of key control and submit the written plan for the CO's approval five (5) days prior to contract start. This plan shall become a part of the quality control plan. The Contractor's plan shall ensure that all keys and lock combinations issued to the Contractor by the Government are not lost, misplaced, or used by unauthorized persons.

b. Neither the Contractor, nor any Contractor personnel, shall duplicate or fabricate any Government key in its custody. Should replacement keys be required, the Contractor shall submit a WRITTEN REQUEST to the COR. The Contractor shall report loss or unauthorized duplication of Government issued keys to the CO or his/her designated representative within 48 hours of learning of the loss or duplication by Contractor and subcontractor personnel.

c. The Contractor shall control access to all Government provided lock combinations to preclude unauthorized entry. The Contractor shall immediately notify the COR when lock combinations have been compromised.

d. Should the security of a facility become compromised by the loss of a key by Contractor personnel, the Contractor shall be responsible for replacement cost for rekeying of locks or lock replacements as determined appropriate by the CO. In the event a master key is lost or duplicated, all locks and keys for that system shall be replaced and replacement cost borne by the Contractor.

e. Contractor personnel shall not allow anyone the use of any Government key in their possession. They shall not open locked rooms or areas to permit entrance by persons other than Contractor personnel performing assigned duties. Any room unlocked by Contractor at the start of work shall not be left unattended during the service process and shall be re-locked by Contractor personnel after completion of their service duties.

## **H.19 DISCLOSURE OF INFORMATION**

a. Neither the Contractor nor any contract personnel shall disclose, or cause to be disseminated, any information concerning the operations which could result in or increase the likelihood of the possibility of a breach of the FLETC (or its partner organizations) security or interrupt the continuity of its operations.

b. No Contractor personnel or representative shall provide any information related to the FLETC activities to any element of the media without the CO's prior written permission. This prohibition includes publicity releases, recruitment notices, etc. All inquiries, comments, or complaints arising from or in connection with the performance of this contract shall be directed to the CO, if dissemination of official information may be required for resolution.

c. Under no circumstances shall the Contractor, or anyone acting on behalf of the Contractor, refer to the equipment or services furnished pursuant to the provisions of this contract in, or in connection with, any news release or commercial advertising, without first obtaining the explicit written consent of the CO.

d. Should any such reference appear in any news release or commercial advertising issued by or on behalf of the Contractor without such prior consent, the Government shall

consider institution of all remedies available under the provisions of this contract. Disclosure of information relating to this contract to any person not entitled to receive it, or failure to safeguard any sensitive information that may come to the Contractor or any person under his control, may subject the Contractor, his agents, or employees to criminal liability under Title 18, Section 793 and 798, of the United States Code.

e. Deviations from, or violations of, any of the provisions of this paragraph will, in addition to all other criminal and civil remedies provided by law, subject the Contractor to immediate termination for default and the individual(s) involved to a withdrawal of the Government's acceptance and approval of performance on the FLETC sites.

## **H.20 ADVERTISING OF AWARD**

The Contractor shall not refer to awards in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Federal Government or is considered by the Government to be superior to other products or services.

## **H.21 DAMAGE REPORTS**

In all instances where Government property or equipment is damaged by Contractor personnel, the Contractor shall submit a full written report of the facts and extent of such to the COR within 24 hours.

## **H.22 PROPERTY DAMAGE AND PERSONAL INJURIES**

The Contractor shall assume full responsibility for any and all damages or claims for damage for injury to persons, property, or equipment which results from any service performed under this contract. The Contractor shall repair or replace to the satisfaction of the CO or his representative any surfaces, fixtures, furnishings, structures, equipment, material, or supplies which were damaged by Contractor personnel. The Contractor shall abide by the decision of the CO whether to repair or to replace items, property, or structures when damage is caused by any of the above. The Contractor shall accomplish such repair or replacement at no cost to the Government within five (5) business days following occurrence of the damage unless otherwise agreed upon by the CO.

## **H.23 INDEMNITY AND LIABILITY**

a. The Contractor shall exercise reasonable care and use the Contractor's best efforts to prevent accidents, injury, or damage to all persons and property in and about the work and to the facility or part(s) thereof upon which work is done.

b. The Contractor shall indemnify and hold harmless the Government against any and all liability claims and costs for injury to any property (Government or otherwise) arising from the occupancy, use, service, operation or performance of work in connection with this contract resulting in whole or in part from the negligent acts or fault of the Contractor or any subcontractor, or any employee, agent or representative of the Contractor or any subcontractor.

c. The Government will in no way be responsible for damages or loss occasioned by fire, theft, and accident or otherwise to the Contractor's stored supplies, materials, equipment, or its personnel's personal belongings.

d. The Contractor shall indemnify the Government against any and all liability claims for injuries, or death of any person and for loss or damage to any property occurring in connection with the occupancy, use, service, operation, or performance of work in connection with this contract resulting from the negligent acts or fault of the Contractor, any subcontractor, any employee, agent, or representative of the Contractor or subcontractor.

#### **H.24 CONTRACTOR LIABILITY FOR ACTS OF GOD**

The Contractor shall not be held responsible for damages incurred as a result of an Act of God, including but not limited to: flood, lightning, hurricane, tornado, earthquake, and unusually severe weather conditions documented by the National Weather Service as differing from the norm for this geographical area. The Contractor shall take all necessary precautions or measures to protect Government property and equipment if warning is given. If the Contractor is found to be negligent in his efforts to minimize damages, the Government shall hold the Contractor liable for those damages and associated costs.

#### **H.25 INSURANCE (JUL 2013)**

a. The Contractor shall procure and maintain insurance at the Contractor's expense during the term of the contract and any extensions. Before starting work under this contract, the Contractor shall certify to the CO in writing that the required insurance has been obtained. Within 15 days after the award of this contract, the Contractor shall furnish to the CO a certificate of insurance as evidence of the existence of the following insurance coverage in amounts not less than the minimum amounts specified below:

1) Comprehensive General Liability: \$200,000 per person and \$500,000 per accident for bodily injury and \$50,000 per occurrence for property damage

2) Automobile Insurance: \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage

3) Standard Workers' Compensation and Employer's Liability Insurance in the minimum amount of \$100,000.

b. The general liability policy shall name "The United States of America, acting by and through the Department of Homeland Security (DHS), Federal Law Enforcement Training Center (FLETC)" as an additional insured with respect to operations performed under this contract.

c. The Certificate of Insurance shall provide for a minimum of 30 days written notice to the CO by the insurance company prior to cancellation or material change in policy coverage.

## **H.26 HOLIDAYS**

a. "Federal holidays" to be used to compute labor hours in the solicitation and contract, are:

New Year's Day

Martin Luther King's Birthday

President's Day

Memorial Day

Freedom Day

Independence Day

Labor Day

Columbus Day

Veteran's Day

Thanksgiving Day

Christmas Day

Any other day designated by Federal statute, Executive Order, or the President's proclamation.

b. When any holiday falls on a Saturday, the preceding Friday is observed. When any holiday falls on a Sunday, the following Monday is observed. Observance of such days by Government personnel shall not by itself be cause for an additional period of performance or entitlement of compensation except as set forth within the contract.

c. Occasionally Federal holidays will be declared normal training days and full Contractor support will be required. Notice of this requirement will be given to the Contractor at least one week in advance.

d. The Contractor shall NOT receive premium rates for any special declared holiday for Federal employees (e.g., national day of mourning for death of a former president).

## **H.27 HOURS OF OPERATION**

Hours of operation are 0800 - 1700.

## **H.28 PHYSICAL AND PERSONNEL SECURITY REQUIREMENTS (OCT 2017)**

### **H.28.1 General Requirements**

a. Contractor and subcontractor personnel in the performance of this contract or any representative of the Contractor entering the FLETC shall abide by all FLETC security



regulations which may be in effect during the contract period. Any such individual(s) shall be subject to those security inspections which may be deemed necessary by the FLETC to ensure that no security violations occur during the course of the contract. It shall be the Contractor's responsibility to ensure that each applicant who is expected to perform on FLETC facilities or that requires routine access to FLETC facilities shall complete the most current versions of FLETC FTC-OSPR-17 Badge Application form, U.S. Customs and Immigration Service (USCIS) Employment Eligibility Verification I-9, Office of Personnel Management (OPM) Declaration for Federal Employment form OF-306, and Federal Bureau of Investigation (FBI) Fingerprint Card FD-258 in order to undergo a suitability background investigation which will be either a fingerprint check, a National Agency Check with Written Inquiries (NACI) or a Minimum Background Investigation (MBI).

1) If an MBI or NACI investigation is required, Contractor and subcontractor personnel will be required to complete a Standard Form 85 (SF 85), Questionnaire for Non-Sensitive Positions, or SF 85P, Questionnaire for Public Trust Positions. An SF 85 is required to be filled out for a NACI. A NACI is performed on Contractor and subcontractor personnel who are considered low risk. An SF 85P is required to be filled out for an MBI. A MBI is normally conducted for Contractor and subcontractor personnel who are in a moderate risk position or have access to Sensitive But Unclassified (SBU) information in all its forms and markings. Individuals in this category include, but are not limited to, those working as educational aides, FLETC Security Police, firearms personnel, explosives handlers, and Information Technology (IT) specialists. In addition, the Contractor should ensure that they have completed an e-Verify search for all Foreign National (FN) Contractor and subcontractor personnel.

2) For a cleared contract, the security background check will be conducted on the Contractor (facility) and Contractor and subcontractor personnel by the Defense Industrial Security Clearance Office (DISCO).

b. The FLETC reserves the right and prerogative to deny and/or restrict facility and information access of any Contractor or subcontractor personnel whose actions are in conflict with the standards of conduct, 5 CFR 2635. In accordance with the most current version of FLETC Manual 71-01, Physical Access Control, Paragraph 6(G), an individual may be denied access to FLETC facilities. Examples of offenses which prevent access to the FLETC include, but are not limited to:

- 1) Any felony conviction within the last six years;
- 2) Any misdemeanor conviction of a serious nature within the last three years;
- 3) Multiple misdemeanor convictions within the last six years;
- 4) An active "habitual offender" classification for any violation of the law;
- 5) Any conviction for drug usage trafficking or involvement in the last two years;
- 6) Violence against Law Enforcement Officers (LEO);

7) Disdain of legal authority.

8) Violations of moral turpitude (e.g., child brutality, child molestation, rape, wrongful death of another, etc.);

9) Other crimes of violence.

10) An active arrest warrant for any of the aforementioned crimes,  
and/or;

11) Past incidents that would reflect badly on the FLETC in the eyes of the public or that would otherwise pose a threat to the safety and security of FLETC personnel or property.

c. The Contractor shall report to the Chief Security Officer (CSO) any adverse information coming to their attention concerning Contractor and subcontractor personnel during the course of the contract. The report shall include the individual's name and social security number. If this information results in the subsequent termination of the individual's access to the FLETC, it does not obviate the requirement to submit this report.

d. Costs, delays and other hardships that result from Contractor or subcontractor personnel being denied access to the FLETC shall be borne entirely by the Contractor. Denial of access for Contractor or subcontractor personnel to the FLETC by the CSO shall not be subject to the Contract Disputes clause and cannot be the basis for any claim under the contract. FLETC security regulations regarding physical security access are found in the most recent revisions of the following FLETC Directives and Manuals: Number 71-01, Physical Access Control; Number 71-00B, Identification Badges, Credentials and Shields; and Number 71-11, Building/Area Security and Access.

#### H.28.2 Access to FLETC Facilities by Contractor Personnel

Determination of Contractor and subcontractor personnel's physical security access requirements must be coordinated with the CO or COR. Contractor and subcontractor personnel are subject to specific access requirements as defined herein.

1) Contractor. The Contractor shall manage the submission of personnel requests for background investigations and shall conduct their own pre-screening to ensure not only that the application is complete, but also to pre-screen for suitability using the same standards the Government applies. These screening items include:

a) Public record criminal checks

b) Past Employment History

c) Education

d) Bankruptcies, Liens, Judgments

e) Verify Social Security Number (SSN), Date of Birth (DOB), and

## Residence

f) E-Verify name check (foreign born)

g) Google Query

h) Social Network Query

2) Suitability for Contractor Personnel to Perform on the FLETC. Suitability factors are identified in the most current version of DHS Instruction Handbook 121-01-007, Suitability and Security Program. The Contractor shall:

a) Furnish to prospective Contractor and subcontractor personnel under this contract the necessary forms to be completed to request access to the FLETC (Form I-9, OF 306, and FTC-OSPR-17).

b) Review the completed forms for completeness and accuracy and submit completed forms to the CO or COR for processing.

c) Ensure that personnel have been checked through E-Verify.

i) E-Verify informational brochure on how to create an account:  
[http://www.uscis.gov/USCIS/Verification/E-](http://www.uscis.gov/USCIS/Verification/E-Verify/Publications/Guides/guide-enrollment.pdf)

[Verify/Publications/Guides/guide-enrollment.pdf](http://www.uscis.gov/USCIS/Verification/E-Verify/Publications/Guides/guide-enrollment.pdf)

ii) E-Verify login at: <https://e-verify.uscis.gov/emp/vislogin.aspx>

iii) Ensure that proposed Contractor and subcontractor personnel meet the standards as outlined in the preceding paragraphs.

iv) Ensure that personnel who are moderate risk and require an MBI do not exceed the DHS bad debt limit of \$7,500.00.

d) Cleared Contractors. Contractor and subcontractor personnel that are to perform on the FLETC in a national security position as identified by the FLETC CSO must be cleared personnel who have received their clearance from the DISCO. Both the Contractor (facility) and the Contractor's (to include subcontractor) personnel must have clearances issued by the DISCO. National security positions are defined in Title 5 Code of Federal Regulation (CFR) 732.102.

3) Contractor Personnel Access For More Than Six Months. All Contractor and subcontractor personnel who are not temporary or intermittent and who work at the FLETC on a regular basis for more than six (6) months will be required to complete an SF 85. For Contractor and subcontractor personnel determined to be in a moderate risk position, the SF 85P will be required to be completed. Questionnaires must be completed by Contractor and subcontractor personnel utilizing the Office of Personnel Management's (OPM) Electronic Questionnaires for Investigation Processing (e-QIP) System.

- a) Office of Security and Professional Responsibility (OSPR) / Personnel Security Program (OSPR/PER) will initiate Contractor and subcontractor personnel into the e-QIP system using information provided on the FTC-OSPR-17.
- b) Contractor and subcontractor personnel will then receive an e-mail message that provides information on accessing the OPM website and completing the electronic questionnaire.
- c) In order for Contractor and subcontractor personnel to begin work, the SF 85/85P must be completed and electronically released to OSPR/PER. OSPR/PER will then release the SF 85/85P to the OPM for the background investigation.
- d) For positions identified by the CSO or FLETC Information System Security Manager (ISSM) as low, moderate, or high risk for suitability for employment, the Contractor shall:
- i) Provide to the CO a Form I-9, OF 306, and Badge Application FTC-OSPR-17 for all identified Contractor and subcontractor personnel. All forms must be completed in their entirety. For U.S. Citizens, the Contractor must submit the required forms at least 10 days in advance of Contractor and subcontractor personnel's earliest proposed access to FLETC IT systems or facilities. Requirements specific to non-U.S. Citizens are outlined later in this section.
  - ii) Upon notification from the FLETC Security staff, Contractor and subcontractor personnel will be required to appear in person before an authorized FLETC representative for the purpose of verifying the individual's identity in accordance with Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors. HSPD-12 mandates that verification of identification for Contractor and subcontractor personnel requires the individual to be physically present, and to present to the badging authority:
    - i. A picture identification card issued by either a governmental entity of one of the several States or the United States Federal government, and;
    - ii. One other form of identification specified on Form I-9. Upon verifying the Contractor and subcontractor personnel's identity, Contractor and subcontractor personnel shall provide fingerprints and a photograph.
  - iii. Following a favorably adjudicated background investigation, the FLETC may issue a Personal Identity Verification (PIV) Card to Contractor and subcontractor personnel that will enable appropriate access to the facility and IT systems. Such access will only be issued in accordance with FLETC Physical Security, Information Security and IT Security policies. Access to national security information only occurs in the event that the Contractor has received a clearance from the DISCO.
  - iv. At the discretion of the CSO and following the receipt of favorable National Agency Check (NAC), the FLETC may elect to approve temporary access to the facility for Contractor and subcontractor personnel while the rest of the suitability investigation is being completed. If the NAC is not returned in five (5) days from the time that the

OSPR/PER releases the electronic questionnaire to the OPM, the results of a fingerprint check can be used to allow the Contractor and subcontractor personnel to begin working.

4) Contractor Personnel Less Than Six Months, More Than Five Days. Contractor and subcontractor personnel who will require access to the FLETC for more than five (5) days, but less than six (6) months, the Contractor shall provide a completed OF 306, Form I-9 and Badge Application FTC-OSPR-17 (Sections A and B of FTC-OSPR-17 must be completed in their entirety). For U.S. Citizens, FLETC requires that the FTC-OSPR-17 shall be submitted to the CO a minimum of 10 business days in advance of Contractor and subcontractor personnel's first day of needed access.

a) FLETC shall conduct background checks for access using the information provided in Sections A and B of FTC-OSPR-17.

i) Upon notification from the FLETC Security staff, Contractor and subcontractor personnel will be required to appear in person before an authorized FLETC representative for the purpose of verifying the individual's identity. Verification of the Contractor and subcontractor personnel's identity requires the individual to be physically present, and to present to the badging authority:

i. A picture identification card issued by either a governmental entity of one of the several States or the United States Federal government, and;

ii. One other form of identification specified on Form I-9. Upon verifying the Contractor and subcontractor personnel's identity, Contractor and subcontractor personnel shall provide fingerprints and a photograph.

iii. Once the results of the fingerprints are received by the OSPR/PER are successfully adjudicated, the Contractor will be allowed to begin work.

5) Contractor Personnel for Five Days or Less. For Contractor and subcontractor personnel who will require access to the FLETC for up to five (5) days, the Contractor shall request temporary or intermittent access utilizing FTC-OSPR-17. Such access is granted at the discretion of the CSO.

6) Employment and Prime Contractor Requirements for Non-U.S. Citizens. The Contractor will adhere to the following requirements when attempting to employ Non-U.S. Citizens on the FLETC.

a) Employment requests for Foreign Nationals (FN) must be submitted to the OSPR with full and complete documentation in the below identified time frame(s). Requests must be made on FTC-OSPR-17, which can be obtained from the FLETC Registration Buildings/Visitors Centers at all FLETC sites.

i) NOTE: All FNs seeking to perform at the FLETC MUST present valid identification documents (i.e., Resident Alien card, Permanent Resident card, Passport, Visa, Employment Authorization Card, etc.) at the Registration Building/Visitor Center. Failure to present required credentials will result in denial of employment eligibility.

b) For FNs who are Lawful Permanent Residents (LPRs) of the United States, requests must be submitted to the OSPR no less than 10 business days in advance of the first day of access. A copy of the FN's LPR card must be attached.

c) Requests for permission to work for FNs who are not LPRs, must be submitted to OSPR no less than 30 business days in advance of the first day of access. A copy of the FNs passport (and visa, if applicable) must be attached.

d) The Contractor must notify the responsible CO as to whether they will employ any Non-U.S. Citizen Contractor or subcontractor personnel that fall into positions/areas with possible access to SBU information. SBU information includes but is not limited to: For Official Use Only (FOUO) information, Law Enforcement Sensitive (LES) information, and Sensitive Personally Identifiable Information (Sensitive PII). All new-hire FN/LPR Contractor and subcontractor personnel/applicants whose new position would fall into assignments with possible access to SBU, will be required to wait until completion of the investigation and adjudication of the contract personnel before being approved for work/access. Such notification will be in writing and will include the name(s) of all of the Contractor and subcontractor's FN/LPR Contractor and subcontractor personnel subject to these requirements. The document will state that the Contractor, subcontractor and their personnel are willing to meet the specific criteria outlined below:

i. Confirm in writing that the FN Contractor and subcontractor personnel has been an LPR of the U.S. for two (2) years or more or if non-LPR the Contractor must confirm in writing that FN personnel have a valid Employment Authorization Document, Form I-766.

ii. Confirm in writing that the Contractor believes that the FN Contractor and subcontractor personnel are not a threat to the U.S. and would properly protect and/or handle the SBU information they will be required to work with or near.

iii. Confirm in writing that the FN Contractor and subcontractor personnel have indicated that they are willing to submit to the OPM-conducted MBI and have agreed to complete the SF 85P, Form I-9, submit a set of fingerprints; and provide any additional information as needed for the conduct of the MBI.

iv. The cost of the investigation and adjudication shall be responsibility of the FN Contractor and subcontractor personnel or the Contractor.

v. FN Contractor and subcontractor personnel who are temporary/intermittent and who have work-related, or may have inadvertent, access to SBU information are required to have a successfully adjudicated MBI prior to beginning work.

vi. Access for those FN/LPR Contractor and subcontractor personnel in these kinds of positions that are not included in the Contractor's request document will be immediately rescinded.

vii. When a FN/LPR contract position applicant is being sponsored by a FLETC Partner Organization (PO) for a position with access to SBU information, the PO must conduct

the required background investigations and the PO sponsor must indicate on the FTC-OSPR-17 that the FN/LPR personnel/applicant has had a favorably adjudicated MBI.

#### **H.28.3 Identification Badges and Vehicle Passes**

a. All individuals working on or requesting access to the FLETC must obtain authorization to enter the FLETC through the issuance of an appropriate FLETC identification badge or PIV card. The FLETC badge/card or PIV card are required to be worn visibly on the outside clothing between the neck and waist displaying the photograph side of the identification badge at all times while on the FLETC premises. Lost or stolen identification documents must be immediately reported to the OSPR Security Management Operations (OSPR/SMO). Contractor and subcontractor personnel who have undergone a background investigation conducted by the OPM (NACI or MBI) and successfully adjudicated by the OSPR/PER will be issued a PIV identification card. All Contractor and subcontractor personnel who have not undergone a background investigation conducted by the OPM will be issued a FLETC identification proximity badge/card.

b. Vehicle passes are issued by the FLETC to those who need to park in reserved parking areas. Vehicle passes will only be issued to Contractor and subcontractor personnel for vehicles maintained in a safe operating condition. Those seeking to park or operate vehicles on the FLETC shall provide the following documents to the appropriate FLETC Security Office as directed: Valid Driver's License; Valid Vehicle Registration Certificate; Proof of Insurance; and FLETC Identification Badge.

c. A \$15.00 replacement charge will be assessed against the Contractor for each FLETC badge/card or pass that must be replaced for other than excessive wear, name change, or other reason approved by the OSPR. The replacement charge for a PIV card is \$25.00. Lost or stolen identification documents shall be considered to be within the control of Contractor and subcontractor personnel. Replacement charges will be assessed and paid by the Contractor prior to the replacement identification badge being issued.

d. If Contractor and subcontractor personnel resign, are terminated, or denied access to the FLETC, voluntarily or otherwise, prior to contract completion, the bearer of the FLETC identification badge or PIV card and vehicle pass shall immediately surrender them to the Contractor. The Contractor shall return the FLETC identification badge/PIV card vehicle pass, and a reason for the removal from the employee to the OSPR/SMO within three (3) business days of the resignation, termination, or access denial. Failure to return the FLETC identification badge or PIV card will result in the Contractor being charged as proscribed in paragraph c. above.

#### **H.28.4 Completion of the Contract**

a. The Contractor shall be responsible for returning to the OSPR all identification badges and vehicle passes issued under the contract no later than 15 days after the final acceptance of the work by the FLETC. Final contract payment shall not be authorized until the FLETC has received all identification badges and passes which have been issued under this contract, including those issued to subcontractors. If the Contractor is unable to

return all badges and passes issued, a charge for the missing documents will be assessed against the final payment as per the replacement costs described above.

b. Before final payment is made, the CO in conjunction with the OSPR may review the number of badge applications submitted under this contract. If the number of Contractor and subcontractor personnel denied access to the FLETC because of the results of the background investigation exceed 8% of the total number of Contractor and subcontractor personnel requesting access to the FLETC, the Contractor shall bear the cost for the background investigations for each denied background check above 8%. The cost of a basic suitability investigation is \$125.00 and the cost of a moderate risk background investigation, Minimum Background Investigation, is \$752.00. The percentage to be borne by the Contractor for Contractor and subcontractor personnel denied access to the FLETC because of the results of the background investigation will be across the board for each type of investigation required above the 8%. The amount will be deducted from the contract total. The amount deducted from the contract total because of this action shall not be subject to the Contract Disputes clause and cannot be the basis for any claim under the contract.

#### H.28.4 Review of Access and Suitability Determinations

a. Access Determinations. Access to classified national security information and the receipt of a security clearance will be in accordance with Executive Order (EO) 13526, as well as all applicable Department of Homeland Security Directives and all applicable FLETC Directives and Manuals. After contract award, Contractor and subcontractor personnel who are denied access to the FLETC shall be provided with "due process" for the denial of access in accordance with all applicable standards. All these actions will be conducted by the DISCO.

b. Suitability Determinations. When adverse information is developed in the course of a suitability investigation, the scope of the inquiry will normally be expanded to the extent necessary to obtain such additional information as may be required to determine whether Contractor and subcontractor personnel may be granted unescorted access to FLETC facilities and sensitive information. Contractor and subcontractor personnel for whom unfavorable or derogatory information has been developed shall be provided with a Proposed Action Letter (PAL) that contains the questionable information. Contractor and subcontractor personnel shall be offered the opportunity to respond to the PAL in order to refute, explain, clarify, or mitigate the information in question. If a determination of ineligibility is made, Contractor and subcontractor personnel shall be formally notified and informed of the reason(s). Adverse information about the Contractor and subcontractor personnel may not be disclosed to the Contractor and/or subcontractor. When a final determination has been made, the Contractor shall be informed simultaneously with notification to the affected individual that individual is ineligible to render services or otherwise perform under the contract. Waivers for specific requirements for working in Federal, Department of Homeland Security, and FLETC facilities shall only be granted under specific conditions and processes as defined in the applicable regulations and directions regarding such requirements.



## **H.29 SECURITY TRAINING**

a. General. All Contractor personnel (including subcontractors or any representative of the Contractor) entering the Federal Law Enforcement Training Center (FLETC) shall be provided Security training prior to performing on FLETC. Training material will be provided by the Government.

b. Training. Security training shall be provided by the Contractor, at least annually, for Contractor and subcontractor personnel, and applicable representatives requiring access to FLETC. The training shall consist of the viewing of a Government-provided video (Security Orientation for Contractors

1) All Contractor and subcontractor personnel requiring access to the FLETC shall review the Government-provided material. Contractor supervisory personnel will ensure that the Exhibit is available for review by any contractor employee.

a) Contractor and subcontractor personnel requiring access to FLETC for a period of six (6) months or more shall also view the Government-provided Security Orientation for Contractors Video at the required reporting timeframes specified below.

b) Contractor and subcontractor personnel requiring access for less than six (6) months shall review the Government-provided material provided by the COR.

c) Reporting. The Contractor shall deliver to the CO a Security Training List within the first 30 days of performance, and semi-annually on the first day of October and April. The Security Training List shall be provided in Microsoft Excel format, and include - Company Name, Contract Number, Employee Name, Date Employee Reports On Center, and Date of Training.

2) Certification. The Contractor shall certify information submitted on the Security Training List is accurate. The Contractor shall designate an authorized representative for certification purposes.

## **H.30 ACCESS TO UNCLASSIFIED FACILITIES, INFORMATION TECHNOLOGY RESOURCES, AND SENSITIVE INFORMATION REQUIREMENT (JUL 2013)**

The assurance of the security of unclassified facilities, IT resources, and sensitive information during the acquisition process and contract performance are essential to the DHS mission. DHS Directive 11042.1, Safeguarding Sensitive But Unclassified (For Official Use Only) Information, describes how Contractors must handle sensitive but unclassified information. The DHS Sensitive Systems Handbook prescribes policies and procedures on security for IT resources. The Contractor shall comply with these policies and procedures, any replacement publications, or any other current or future DHS policies and procedures covering Contractors specifically for all task orders that require access to DHS facilities, IT resources or sensitive information. The Contractor shall not use or redistribute any DHS information processed, stored, or transmitted by the Contractor except as specified in the task order.

The Government will provide the Contractor with access to existing system.

Sensitive Information, means any information, the loss, misuse, disclosure, or unauthorized access to or modification of which could adversely affect the national or homeland security interest, or the conduct of Federal programs, or the privacy to which individuals are entitled under Section 552a of Title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an EO or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes but is not limited to the following categories of information:

(1) Protected Critical Infrastructure Information (PCII) as set out in the Critical Infrastructure Information Act of 2002 (Title II, Subtitle B, of the Homeland Security Act, Public Law 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto (Title 6, Code of Federal Regulations, Part 29) as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his/her designee);

(2) Sensitive Security Information (SSI), as defined in Title 49, Code of Federal Regulations, Part 1520, as amended, "Policies and Procedures of Safeguarding and Control of SSI," as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his/her designee);

(3) Information designated as FOUO, which is unclassified information of a sensitive nature and the unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national or homeland security interest; and

NOTE: By Fiscal Year 2014, the designation "Controlled Unclassified Information" (CUI) will replace FOUO and other sensitive but unclassified markings. As mandatory implementation time comes closer, the Contractor may find more documents, materials, and other information formats marked or referred to as CUI. Any material referenced in any manner as CUI will receive the same protections as those outlined in DHS Directive 11042.1, Safeguarding Sensitive But Unclassified (For Official Use Only) Information.

(4) Any information that is designated "sensitive" or subject to other controls, safeguards or protections in accordance with subsequently adopted homeland security information handling procedures.

(5) "Information Technology Resources" include, but are not limited to, computer equipment, networking equipment, telecommunications equipment, cabling, network drives, computer drives, network software, computer software, software programs, intranet sites, and internet sites.

Contractor and subcontractor personnel working on this contract must complete such forms as may be necessary for security or other reasons, including the conduct of background investigations to determine suitability. Completed forms shall be submitted

as directed by the CO. Upon the CO's request, the Contractor and subcontractor personnel shall be fingerprinted, or subject to other investigations as required. All Contractor and subcontractor personnel requiring recurring access to Government facilities or access to sensitive information or IT resources are required to have a favorably adjudicated background investigation prior to commencing work on this contract unless this requirement is waived under Departmental procedures.

The CO may require the Contractor to prohibit individuals from working on the contract if the government deems their initial or continued employment contrary to the public interest for any reason, including, but not limited to, carelessness, insubordination, incompetence, or security concerns.

Work under this contract may involve access to sensitive information. Therefore, the Contractor shall not disclose, orally or in writing, any sensitive information to any person unless authorized in writing by the CO. For Contractor and subcontractor personnel authorized access to sensitive information, the Contractor shall ensure that these persons receive training concerning the protection and disclosure of sensitive information both during and after contract performance.

The Contractor shall include the substance of this clause in all subcontracts at any tier where the subcontractor may have access to Government facilities, sensitive information, or resources.

Before receiving access to IT resources under this contract the individual must receive a security briefing, which the COR will arrange, and complete the Contractor's verification of Security Training.

### **H.31 OPERATIONS SECURITY (OPSEC) REQUIREMENTS (JUL 2013)**

The FLETC OPSEC Program (SEM/OPS) acts to secure against the inadvertent release or unauthorized disclosure of such information outside established control procedures. Specific, unclassified facts about the FLETC's mission, intentions, capabilities, or activities are considered critical information and must be protected to ensure our adversaries are not successful. OPSEC measures pertaining to a contract require additional requirements to consider such as:

a. FLETC must determine if there is critical information associated with the contract or activities involved in the contract that warrants the inclusion of OPSEC requirements. Consideration shall be given to the type of work being performed and the environment and circumstances in which contract performance will occur. Potential Critical Information that must be protected includes but is not limited to:

- 1) Indications of when and where activities will occur (such as tests) which can possibly be targeted and present collection opportunities by foreign intelligence.
- 2) The duration of a contract and indications of results (such as in ads, status reports and brochures).

- 3) The existence of a contract, services involved and what is being developed in U.S. press releases, stock prospective, etc.
- 4) Pictures indicating classified design features or approaches.
- 5) The lettering of contracts and identity of subcontractors.
- 6) Maps, Aerial Photographs, Floor Plans of the project.
- 7) Photographs including facial images.
- 8) Official and Personal websites (including social networking sites) revealing details of the project.
- 9) Contract specifications detailing how project and contractor personnel are handling/protecting SBU information.

b. To ensure uniformity in the way OPSEC requirements are presented to industry, the following guidance shall be followed:

- 1) Guidance will be appended to basic solicitations or contracts and labeled "OPSEC Requirements."
- 2) OPSEC guidance will include Critical Information pertinent to contractual activities and essential secrecy to be maintained and statement of harm if adversaries derive accurate estimates.

c. If OPSEC requirements are necessary, an OPSEC review shall be conducted of the statement of work (SOW) for contracts prior to the time the CO releases the SOW to contract offerors/bidders. The SOW is a publicly released document that can reveal critical information or indicators of critical information. It is important that COs, CORs and Contractors work with SEM/OPS and project coordinators, e.g., FLETC Facilities Management Division (FMD), PRO, etc. to identify OPSEC requirements for the scope of work to be performed. The SOW should also undergo a formal content review prior to its release to the public.

d. FLETC and PO COs, CORs, and contractor managers are responsible for ensuring that their respective Contractors are aware of this policy and adhere to these requirements. This includes responding to Contractor inquiries on what photography is permissible and what is not, as well as researching and coordinating interpretation of the policy with SEM/OPS.

e. Contractor and subcontractor personnel may be required to participate in formal OPSEC classroom and/or computer based training (CBT) and briefings, as required.

f. Contractor and subcontractor personnel use of personal still and video photography (including cell phone cameras) is prohibited.

g. Contractor and subcontractor personnel use of still and video photography is limited to ONLY those authorized activities on FLETC facilities that have been approved by the

applicable FLETC Training Directorate and/or PO Academy, are part of official visits and media activities coordinated through the FLETC Public Affairs Office (PAO), and/or are part of contract requirements coordinated through the respective CO, COR, and SEM/OPS.

h. Photographing of ANY training activity must be approved in writing by the applicable FLETC Training Directorate and/or PO Academy.

1) Contractor and subcontractor personnel to whom access to FLETC-related SBU and critical information is granted will:

2) Be aware of and comply with FLETC safeguarding requirements for OPSEC, as applicable.

3) Be aware that not protecting DHS and FLETC critical information may result in administrative or disciplinary action.

4) Participate in formal OPSEC classroom and/or CBT and briefings, as required.

5) The Contractor will coordinate with Project Coordinators, e.g., FMD, and SEM/OPS the conduct of OPSEC reviews, assessments, and evaluations of FLETC contractor products designated for external distribution or publication to include television, radio, film, video, print, photography, and electronic products, for those assigned contracts.

a) As applicable, the Contractor will ensure that all subordinate Contractor and subcontractor personnel will participate with these reviews, surveys, assessments, development of countermeasures, etc., for their respective organization.

b) The Contractor will ensure documentation of individual Contractor and subcontractor personnel attendance at OPSEC briefings and training occurs by following established training documentation procedures, as applicable. Submit all applicable Contractor OPSEC training documentation to the respective COR.

## **H.32 INFORMATION TECHNOLOGY AND DATA SECURITY REQUIREMENTS (JUL 2013)**

a. General Requirements: All Contractor and subcontractor personnel in the performance of this contract requiring access to the FLETC information technology (IT) systems or sensitive data shall abide by all FLETC IT security regulations which may be in effect during the contract period. Any such individual(s) shall be subject to those checks which may be deemed necessary by the FLETC to ensure that no violations occur. It shall be the Contractor's responsibility to ensure that all Contractor and subcontractor personnel who are expected to have access to FLETC-owned or -operated IT systems or IT systems contracted on behalf of the FLETC that contain FLETC sensitive data or information, undergo or have undergone an appropriate suitability background investigation. The type of background investigation that is conducted is based on the FLETC's assessment of risk of the contractor's position. Positions may be categorized as either IT or non-IT and based on the risk (i.e., low, moderate) to public trust.

Determination of Contractor and subcontractor personnel IT access needs must be coordinated with the COR. IT system and data suitability background investigation requirements may be greater than those requirements for physical security access to the FLETC facilities. Suitability background investigation processes for physical security access will be followed as contained in this Section H. Temporary IT system and data access will only be permitted for non-sensitive IT systems and data. For Contractor and subcontractor personnel who will require admittance to FLETC facilities and/or are being given access to FLETC SBU information that includes, Personnel Identity Information (PII), Protected critical Infrastructure Information (PCII), Sensitive Security Information (SSI), FOUO, or IT resources, will be required to undergo a background investigation even if they work for less than six months. Depending on the risk level, the background investigation will be a NACI or MBI. The risk determination will be made in consultation with the CO, PHY, PER, and the Chief Information Security Officer (CISO).

The required suitability background investigation forms will be provided upon contract award. All forms must be completed in their entirety by all Contractor and subcontractor personnel subject to the requirement. If the background investigation results in an unfavorable adjudication, the individual will be denied access to FLETC IT systems and sensitive data. Examples of offenses which could prevent access to FLETC IT systems and sensitive data include, but are not limited to: any felony convictions or habitual violations, any crimes against a police officer, any conviction for distribution of illegal drugs, or any crimes of moral turpitude. Any cost or time delay which the Contractor experiences in the contract due to Contractor and subcontractor personnel being denied access to FLETC IT systems and sensitive data shall be the sole responsibility of the Contractor. Denial of IT system access for any individual because of failure to meet FLETC IT security standards shall not be subject to the Contract Disputes clause and cannot be the basis for any claim under the contract. The DHS IT security requirements are outlined in DHS Sensitive Systems Policy Directive 4300A.

b. Contract Completion: The Contractor shall be responsible for ensuring the FLETC Chief Information Officer (CIO) Directorate is notified of all Contractor and subcontractor personnel released from this contract support at the time of release, voluntarily or otherwise and at the end of the contract, who were issued access accounts to any FLETC IT systems. Notification to the CIO Directorate shall be through the COR.

#### H.32.1 Information Technology Security Training

a. All Contractor and subcontractor personnel entering the FLETC shall be provided IT Security training prior to accessing an information system, its information, and resources. Training material will be provided by the Government. 5 CFR part 930, subpart C, as revised, requires that all users of Federal information systems be exposed to security awareness materials annually or whenever system security changes occur, or when the user's responsibilities change. Training for new system users must occur before they are allowed access to systems. OMB Circular A-130, Appendix III, Security of Federal Automated Information Resources, requires that persons be trained in their responsibilities and in the Rules of Behavior for system. In accordance with FLETC policy, all IT system users must complete initial IT security training and must acknowledge the FLETC IT system rules of behavior, prior to gaining system access.

b. IT Security Awareness training shall be provided by the Contractor for Contractor and subcontractor personnel requiring access to FLETC IT systems and resources. The Contractor shall use training prescribed by the Chief Information Security Officer. Contractor and subcontractor personnel must receive the prescribed training before initial access will be granted, and annually thereafter until access is no longer required.

c. The Contractor shall deliver to the CO an IT Security training report within the first 30 days of performance. The report shall be provided in Microsoft Excel format. The report shall contain the Company Name, Employee Name, Date, and Date of Training.

d. The Contractor shall verify information submitted on the report is accurate.

e. In addition to IT Security Awareness training, the Contractor shall provide Contractor and subcontractor personnel performing significant IT security responsibilities under this contract with specific role-based training prescribed in Appendix A of the FLETC IT Security Awareness, Training and Education Plan.

#### H.32.2 IT Access

The Contractor shall sign the prescribed Rules of Behavior before access to FLETC IT systems will be granted. The Contractor consents to monitoring for compliance and other lawful purposes while using a FLETC-issued account.

#### H.32.3 Contractor IT Security Plan

The Contractor shall provide, implement and maintain an IT Security Plan. The plan shall be delivered to the CO in accordance with HSAR 3052.204-70, Security Requirements for Unclassified Information Technology Resources for Government approval. Upon Government approval the plan will be incorporated into the contract as a compliance document.

#### H.32.4 Interconnection Security Agreements

Interconnections between FLETC and non-FLETC IT systems shall be established only through controlled interfaces and via approved service providers. The controlled interfaces shall be accredited at the highest security level of information on the network. Connections with other Federal agencies shall be documented based on interagency agreements; memoranda of understanding, service level agreements or interconnection security agreements.

#### H.32.5 Information Security Standards Applicable to this Contract

DHS Sensitive Systems Policy Directive 4300A, version 9.0.2, March 2012, or subsequent publication.

### **H.33 PHASE-IN/ORIENTATION PERIOD (JUL 2013)**

a. The Contractor shall become acquainted with all available information regarding difficulties which may be encountered and the conditions under which the work of this contract must be accomplished. The Contractor will NOT be relieved from assuming all

responsibility for properly estimating the difficulties and the cost of performing the services required because of his failure to investigate the conditions or to become acquainted with all information concerning the services to be performed.

b. The Contractor shall begin phase-in only after post award conference and in accordance with the requirements contained in the submitted phase-in plan. The Contractor is expected to be at full performance at the completion of the phase-in period.

c. To ensure a smooth transition of work effort from the incumbent, the Contractor shall begin an orientation to:

- 1) Become thoroughly familiar with work requirements and work procedures.
- 2) Finalize development of necessary work plans and procedures.
- 3) Complete personnel requirements (work force) including the hiring of personnel to assure satisfactory performance beginning on the contract start date.
- 4) Obtain security clearances, if required.
- 5) Complete training requirements and accomplish necessary training of Contractor and subcontractor personnel.
- 6) Finalize the development of quality control plans and procedures.
- 7) The Contractor is prohibited from soliciting Government personnel for employment.
- 8) The Contractor shall negotiate in good faith a plan with the incumbent as described in the below cited clause entitled PHASE-OUT/CONTRACT COMPLETION.

d. Immediately after award and prior to performance, the Contractor's representative and the COR shall make an on-site, in-depth review of the total job requirements. The Contractor will be allowed access to the facilities to familiarize supervisors, key personnel, and staff with equipment, reporting, work scheduling and procedures (including operations, priorities, safety, security, etc). To preclude interference with work production efforts of the current personnel, arrangements for access to Government facilities will be made with the CO.

e. The Contractor shall make provisions for all required building, material, and equipment inventories to be conducted during the last 10 business days of the phase-in period. The Contractor shall coordinate these inventories with the COR so those appropriate representatives may be present for all inventories. The Contractor shall sign receipt for the items upon completion of the inventory. Responsibility for performance of the services covered shall also pass to the Contractor at that time. A proposed schedule for the inventories shall be included in the phase-in plan.

#### **H.34 ACTIVE SHOOTER TRAINING (DEC 2015)**

a. General. All Contractor personnel (including subcontractors or any representative of the Contractor) entering the Federal Law Enforcement Training Center (FLETC) shall be



provided Security training prior to performing on FLETC. Training material will be provided by the Government.

b. Training. Security training shall be provided by the Contractor, at least annually, for Contractor and subcontractor personnel, and applicable representatives requiring access to FLETC. The training shall consist of the viewing of a Government-provided video (Security Orientation for Contractors) or review of attached Government-provided material contained outlining the major security references and requirements for the Contractor.

1) All Contractor and subcontractor personnel requiring access to the FLETC shall review the attached Government-provided material. Contractor supervisory personnel will ensure that the material is available for review by any contractor employee.

a) Contractor and subcontractor personnel requiring access to FLETC for a period of six (6) months or more shall also view the Government-provided Security Orientation for Contractors Video at the required reporting timeframes specified below.

b) Contractor and subcontractor personnel requiring access for less than six (6) months shall review the attached Government-provided material.

c) Reporting. The Contractor shall deliver to the CO a Security Training List within the first 30 days of performance, and semi-annually on the first day of October and April. The Security Training List shall be provided in Microsoft Excel format, and include - Company Name, Contract Number, Employee Name, Date Employee Reports On Center, and Date of Training. The standardized format is attached.

2) Certification. The Contractor shall certify information submitted on the Security Training List is accurate. The Contractor shall designate an authorized representative for certification purposes.

#### **H.35 PHASE-OUT/CONTRACT COMPLETION (JUL 2013) N/A**

a. The Contractor shall provide a phase-out plan to the Contracting Officer for approval 102 days prior to contract completion. The plan shall describe how the contractor shall approach the following issues: orientation and training of follow-on contractor, and any other actions required to ensure continuity of services. The contractor shall provide a certified list of all service employees on the contractor's and/or subcontractor's payroll together with anniversary dates of employment to the COR and CO. During the phase-out period, the incumbent shall be fully responsible for contract performance. Government reserves the right to conduct site visits in all Contractor operated facilities in conjunction with the solicitation of offers for the follow-on contract. In the event the follow-on contract is awarded to other than the incumbent, the incumbent Contractor shall cooperate to the extent required to permit an orderly change over to the succeeding Contractor. This includes reasonable recruitment access to incumbent employees. A recruitment notice may be placed in each facility.

b. At a minimum the incumbent contractor Project Manager shall be available to attend the post-award conference to the follow-on contract as a means to aid in transition.

Duration of engagement shall be limited to two (2) hour. Incumbent shall be notified no later than 72 hours in advance of conduct of the conference of date and time for attendance.

c. If there is a change in Contractor, the incumbent Contractor shall negotiate in good faith a plan with the follow-on contractor addressing the nature and extent of orientation and training to ensure nominal impact during transition and to comply with the clause above entitled 'PHASE-IN/ORIENTATION PERIOD.' The plan shall specify a training program and a date for transferring responsibility for each division of work described in the plan, and shall be subject to the Contracting Officer's approval.

d. The Contractor shall schedule all inventories to occur within 15 business days prior to exercise of options or the termination of the contract. The Contractor shall coordinate these inventories with the COR so those appropriate representatives may be present.

e. Within five (5) business days after completion of this contract (or as otherwise directed by the CO) the Contractor shall remove all Contractor owned vehicles, equipment, tools, supplies, materials, or other items from the FLETC. The Government reserves the right to dispose of items remaining after the stated period in accordance with Federal property regulations.

f. Within 21 business days after completion of this contract the Contractor shall return all personnel identification badges. Final contract payment will not be authorized until the FLETC has received all identification badges and passes issued under this contract.

g. All documents will be maintained in an organized, acceptable working order by the Contractor in the Government provided office. The Technical Library, if required by this contract, shall remain in place, in acceptable working order, at the Contractor's office at completion (or termination) of the contract. Upon contract completion or termination of the contract the Contractor shall make the library available to the follow-on contractor during the Phase in/Phase out period. The exiting Contractor shall ensure the Technical Library is in an organized and maintained state prior to turning over to the follow-on contractor.

### **H.36 SALVAGE**

All Government-owned material and equipment which are removed or disconnected but are not specifically indicated or specified for reuse shall remain the property of the Government if determined by the COR to be of value. Such items shall be delivered by the Contractor to the location on FLETC designated by the CO, when and if circumstances arise which warrant doing so.

## **I - Contract Clauses**

**52.202-1 Definitions. (June 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. (June 2020)**

**52.203-12 Limitation on Payments to Influence Certain Federal Transactions. (June 2020)**

**52.203-17 Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights. (June 2020)**

**52.204-9 Personal Identity Verification of Contractor Personnel. (JAN 2011)**

**52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (AUG 2020)**

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

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

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

*Covered telecommunications equipment or services* means-

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

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

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

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

*Critical technology* means-

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

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

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

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

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

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

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

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

*Interconnection arrangements* means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (*e.g.*, connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

*Reasonable inquiry* means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered

telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

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

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

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

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

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

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

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

(d) *Reporting requirement.* (1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during

contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

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

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

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

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

**(End of clause)**

#### **52.212-4 Contract Terms and Conditions—Commercial Products and Commercial Services**

##### **CONTRACT TERMS AND CONDITIONS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DEC 2022)**

(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 [41 U.S.C. chapter 71](#), Contract Disputes. 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 Federal Acquisition Regulation (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, 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-System for Award Management, or [52.232-34](#), Payment by Electronic Funds Transfer-Other Than System for Award Management), 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 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 [41 U.S.C. 7109](#), 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 FAR [32.608-2](#) 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. chapter 37](#), Contract Work Hours and Safety Standards; [41 U.S.C. chapter 87](#), Kickbacks; [41 U.S.C. 4712](#) and [10 U.S.C. 4701](#) relating to whistleblower protections; [49 U.S.C. 40118](#), Fly American; and [41 U.S.C. chapter 21](#) 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, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations 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) [Reserved]

(u) Unauthorized Obligations.

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

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

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) Incorporation by reference. The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of clause)

## **52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.**

### **CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (SEP 2023)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

(1) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Nov 2021) (Section 1634 of Pub. L. 115-91).

(3) [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(4) [52.209-10](#), Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).

(5) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (MAR 2023) ( [31 U.S.C. 3903](#) and [10 U.S.C. 3801](#) ).

(6) [52.233-3](#), Protest After Award (AUG 1996) ( [31 U.S.C. 3553](#) ).

(7) [52.233-4](#), Applicable Law for Breach of Contract Claim (OCT 2004) (Public Laws 108-77 and 108-78 ( [19 U.S.C. 3805 note](#) )).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

[Contracting Officer check as appropriate.]

X (1) [52.203-6](#), Restrictions on Subcontractor Sales to the Government (JUN 2020), with *Alternate I* (Nov 2021) ( [41 U.S.C. 4704](#) and [10 U.S.C. 4655](#) ).

   (2) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Nov 2021) ( [41 U.S.C. 3509](#) ).

   (3) [52.203-15](#), Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

X (4) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020) (Pub. L. 109-282) ( [31 U.S.C. 6101 note](#) ).

   (5) [Reserved].

   (6) [52.204-14](#), Service Contract Reporting Requirements (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

   (7) [52.204-15](#), Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

   (8) [52.204-27](#), Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

X (9) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Nov 2021) ( [31 U.S.C. 6101 note](#) ).

   (10) [52.209-9](#), Updates of Publicly Available Information Regarding Responsibility Matters (OCT 2018) ( [41 U.S.C. 2313](#) ).

   (11) [Reserved].

   (12) [52.219-3](#), Notice of HUBZone Set-Aside or Sole-Source Award (OCT 2022) ( [15 U.S.C. 657a](#) ).

— (13) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2022) (if the offeror elects to waive the preference, it shall so indicate in its offer) ( [15 U.S.C. 657a](#)).

— (14) [Reserved]

X\_ (15)(i) [52.219-6](#), Notice of Total Small Business Set-Aside (Nov 2020) ( [15 U.S.C. 644](#)).

— (ii) Alternate I (MAR 2020) of [52.219-6](#).

— (16)

(i) [52.219-7](#), Notice of Partial Small Business Set-Aside (Nov 2020) ( [15 U.S.C. 644](#)).

— (ii) Alternate I (MAR 2020) of [52.219-7](#).

— (17) [52.219-8](#), Utilization of Small Business Concerns (SEP 2023) ( [15 U.S.C. 637\(d\)\(2\)](#) and (3)).

— (18)

(i) [52.219-9](#), Small Business Subcontracting Plan (SEP 2023) ( [15 U.S.C. 637\(d\)\(4\)](#)).

— (ii) Alternate I (Nov 2016) of [52.219-9](#).

— (iii) Alternate II (Nov 2016) of [52.219-9](#).

— (iv) Alternate III (JUN 2020) of [52.219-9](#).

— (v) Alternate IV (SEP 2023) of [52.219-9](#).

— (19)

(i) [52.219-13](#), Notice of Set-Aside of Orders (MAR 2020) ( [15 U.S.C. 644\(r\)](#)).

— (ii) Alternate I (MAR 2020) of [52.219-13](#).

— (20) [52.219-14](#), Limitations on Subcontracting (OCT 2022) ( [15 U.S.C. 637s](#)).

— (21) [52.219-16](#), Liquidated Damages—Subcontracting Plan (SEP 2021) ( [15 U.S.C. 637\(d\)\(4\)\(F\)\(i\)](#)).

— (22) [52.219-27](#), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (OCT 2022) ( [15 U.S.C. 657f](#)).

— (23)

(i) [52.219-28](#), Post Award Small Business Program Rerepresentation (SEP 2023)( [15 U.S.C. 632\(a\)\(2\)](#)).

— (ii) Alternate I (MAR 2020) of [52.219-28](#).

— (24) [52.219-29](#), Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (OCT 2022) ( [15 U.S.C. 637\(m\)](#)).

— (25) [52.219-30](#), Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (OCT 2022) ( [15 U.S.C. 637\(m\)](#)).

— (26) [52.219-32](#), Orders Issued Directly Under Small Business Reserves (MAR 2020) ( [15 U.S.C. 644\(r\)](#)).

— (27) [52.219-33](#), Nonmanufacturer Rule (SEP 2021) ( [15 U.S.C. 637\(a\)\(17\)](#)).

— (28) [52.222-3](#), Convict Labor (JUN 2003) (E.O.11755).

— (29) [52.222-19](#), Child Labor-Cooperation with Authorities and Remedies (DEC 2022) (E.O.13126).

— (30) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).

— (31)

(i) [52.222-26](#), Equal Opportunity (SEP 2016) (E.O.11246).

— (ii) Alternate I (FEB 1999) of [52.222-26](#).

— (32)

(i) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).

— (ii) Alternate I (JUL 2014) of [52.222-35](#).

— (33)

(i) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUN 2020) ( [29 U.S.C. 793](#)).

— (ii) Alternate I (JUL 2014) of [52.222-36](#).

— (34) [52.222-37](#), Employment Reports on Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).

— (35) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).

X\_ (36)(i) [52.222-50](#), Combating Trafficking in Persons (Nov 2021) ( [22 U.S.C. chapter 78](#) and E.O. 13627).

— (ii) Alternate I (MAR 2015) of [52.222-50](#) ( [22 U.S.C. chapter 78](#) and E.O. 13627).

— (37) [52.222-54](#), Employment Eligibility Verification (MAY 2022) (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial products or commercial services as prescribed in FAR [22.1803](#).)

— (38)

(i) [52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA–Designated Items (MAY 2008) ( [42 U.S.C. 6962\(c\)\(3\)\(A\)\(ii\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

— (ii) Alternate I (MAY 2008) of [52.223-9](#) ( [42 U.S.C. 6962\(i\)\(2\)\(C\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

— (39) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693).

— (40) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693).

— (41)

(i) [52.223-13](#), Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) (E.O.s 13423 and 13514).

— (ii) Alternate I (OCT 2015) of [52.223-13](#).

— (42)

(i) [52.223-14](#), Acquisition of EPEAT®-Registered Televisions (JUN 2014) (E.O.s 13423 and 13514).

— (ii) Alternate I (JUN 2014) of [52.223-14](#).

— (43) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (MAY 2020) ( [42 U.S.C. 8259b](#)).

— (44)

(i) [52.223-16](#), Acquisition of EPEAT®-Registered Personal Computer Products (OCT 2015) (E.O.s 13423 and 13514).

— (ii) Alternate I (JUN 2014) of [52.223-16](#).

X\_ (45) [52.223-18](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (JUN 2020) (E.O. 13513).

— (46) [52.223-20](#), Aerosols (JUN 2016) (E.O. 13693).

— (47) [52.223-21](#), Foams (JUN 2016) (E.O. 13693).

— (48)

(i) [52.224-3](#) Privacy Training (JAN 2017) (5 U.S.C. 552 a).

— (ii) Alternate I (JAN 2017) of [52.224-3](#).



— (49)

(i) [52.225-1](#), Buy American-Supplies (OCT 2022) ( [41 U.S.C. chapter 83](#)).

— (ii) Alternate I (OCT 2022) of [52.225-1](#).

X\_ (50)(i) [52.225-3](#), Buy American-Free Trade Agreements-Israeli Trade Act (DEC 2022) ( [19 U.S.C. 3301 note](#), [19 U.S.C. 2112 note](#), [19 U.S.C. 3805 note](#), [19 U.S.C. 4001 note](#), 19 U.S.C. chapter 29 (sections 4501-4732), Public Law 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43.

— (ii) Alternate I [Reserved].

— (iii) Alternate II (DEC 2022) of [52.225-3](#).

— (iv) Alternate III (JAN 2021) of [52.225-3](#).

— (v) Alternate IV (Oct 2022) of [52.225-3](#).

— (51) [52.225-5](#), Trade Agreements (DEC 2022) ( [19 U.S.C. 2501](#), *et seq.*, [19 U.S.C. 3301](#) note).

X (52) [52.225-13](#), Restrictions on Certain Foreign Purchases (FEB 2021) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

— (53) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).

— (54) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) ( [42 U.S.C. 5150](#)).

— (55) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov2007) ( [42 U.S.C. 5150](#)).

— (56) [52.229-12](#), Tax on Certain Foreign Procurements (FEB 2021).

— (57) [52.232-29](#), Terms for Financing of Purchases of Commercial Products and Commercial Services (Nov 2021) ( [41 U.S.C. 4505](#), [10 U.S.C. 3805](#)).

— (58) [52.232-30](#), Installment Payments for Commercial Products and Commercial Services (Nov 2021) ( [41 U.S.C. 4505](#), [10 U.S.C. 3805](#)).

— (59) [52.232-33](#), Payment by Electronic Funds Transfer-System for Award Management (OCT2018) ( [31 U.S.C. 3332](#)).

— (60) [52.232-34](#), Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) ( [31 U.S.C. 3332](#)).

— (61) [52.232-36](#), Payment by Third Party (MAY 2014) ( [31 U.S.C. 3332](#)).

— (62) [52.239-1](#), Privacy or Security Safeguards (AUG 1996) ( [5 U.S.C. 552a](#)).

— (63) [52.242-5](#), Payments to Small Business Subcontractors (JAN 2017) ( [15 U.S.C. 637\(d\)\(13\)](#)).

— (64)

(i) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) ( [46 U.S.C. 55305](#) and [10 U.S.C. 2631](#)).

— (ii) Alternate I (APR 2003) of [52.247-64](#).

— (iii) Alternate II (Nov 2021) of [52.247-64](#).

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

[Contracting Officer check as appropriate.]

— (1) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ( [41 U.S.C. chapter 67](#)).

— (2) [52.222-42](#), Statement of Equivalent Rates for Federal Hires (MAY 2014) ( [29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

— (3) [52.222-43](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (AUG 2018) ( [29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

— (4) [52.222-44](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (May 2014) ( [29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

— (5) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) ( [41 U.S.C. chapter 67](#)).

— (6) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (MAY 2014) ( [41 U.S.C. chapter 67](#)).

— (7) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).

— (8) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

— (9) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) ( [42 U.S.C. 1792](#)).

(d) *Comptroller General Examination of Record*. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, as defined in FAR [2.101](#), on the date of award of this contract, and does not contain the clause at [52.215-2](#), Audit and Records-Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR subpart [4.7](#), Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)

(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1), in a subcontract for commercial products or commercial services. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Nov 2021) ( [41 U.S.C. 3509](#)).

(ii) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(iii) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Nov 2021) (Section 1634 of Pub. L. 115-91).

(iv) [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(v) [52.204-27](#), Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

(vi) [52.219-8](#), Utilization of Small Business Concerns (SEP 2023) ( [15 U.S.C. 637\(d\)\(2\)](#) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR [19.702](#)(a) on the date of subcontract award, the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(vii) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).

(viii) [52.222-26](#), Equal Opportunity (SEP 2015) (E.O.11246).

- (ix) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).
- (x) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUN 2020) ( [29 U.S.C. 793](#)).
- (xi) [52.222-37](#), Employment Reports on Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).
- (xii) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).
- (xiii) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ( [41 U.S.C. chapter 67](#)).
- (xiv)
- (A) [52.222-50](#), Combating Trafficking in Persons (Nov 2021) ( [22 U.S.C. chapter 78](#) and E.O 13627).
- (B) Alternate I (MAR 2015) of [52.222-50](#) ( [22 U.S.C. chapter 78](#) and [E.O. 13627](#)).
- (xv) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) ( [41 U.S.C. chapter 67](#)).
- (xvi) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (MAY 2014) ( [41 U.S.C. chapter 67](#)).
- (xvii) [52.222-54](#), Employment Eligibility Verification (MAY 2022) (E.O. 12989).
- (xviii) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).
- (xix) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).
- (xx)
- (A) [52.224-3](#), Privacy Training (Jan 2017) ( [5 U.S.C. 552a](#)).
- (B) Alternate I (JAN 2017) of [52.224-3](#).
- (xxi) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).
- (xxii) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) ( [42 U.S.C. 1792](#) ). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](#).
- (xxiii) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (Mar 2023) ( [31 U.S.C. 3903](#) and [10 U.S.C. 3801](#) ). Flow down required in accordance with paragraph (c) of [52.232-40](#).

(xxiv) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) ( [46 U.S.C. 55305](#) and [10 U.S.C. 2631](#)). Flow down required in accordance with paragraph (d) of FAR clause [52.247-64](#).

(2) While not required, the Contractor may include in its subcontracts for commercial products and commercial services a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

**52.237-2 Protection of Government Buildings, Equipment, and Vegetation. (April 1984)**

**52.244-6 Subcontracts for Commercial Items. (NOV 2020)**

**52.246-4 Inspection of Services-Fixed-Price. (AUG 1996)**

**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): [www.acquisition.gov](http://www.acquisition.gov), [www.acquisition.gov/hsar](http://www.acquisition.gov/hsar)

(End of clause)

**3052.204-71 Contractor Employee Access (JUL 2023).**

(a) Controlled Unclassified Information (CUI) is any information the Government creates or possesses, or an entity creates or possesses for or on behalf of the Government (other than classified information) that a law, regulation, or Governmentwide policy requires or permits an agency to handle using safeguarding or dissemination controls. This definition includes the following CUI categories and subcategories of information:

(1) Chemical-terrorism Vulnerability Information (CVI) as defined in [6 CFR part 27](#), “Chemical Facility Anti-Terrorism Standards,” and as further described in supplementary guidance issued by an authorized official of the Department of Homeland Security (including the Revised Procedural Manual “Safeguarding Information Designated as Chemical-Terrorism Vulnerability Information” dated September 2008);

(2) Protected Critical Infrastructure Information (PCII) as set out in the Critical Infrastructure Information Act of 2002 (title XXII, subtitle B of the Homeland Security Act of 2002 as amended through [Pub. L. 116–283](#)), PCII’s implementing regulations ([6 CFR part 29](#)), the PCII Program Procedures Manual, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security, the PCII Program Manager, or a PCII Program Manager Designee;

(3) Sensitive Security Information (SSI) as defined in [49 CFR part 1520](#), “Protection of Sensitive Security Information,” as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or designee), including Department of Homeland Security MD 11056.1, “Sensitive Security Information (SSI)” and, within the Transportation Security Administration, TSA MD 2810.1, “SSI Program”;

(4) Homeland Security Agreement Information means information the Department of Homeland Security receives pursuant to an agreement with State, local, Tribal, territorial, or private sector partners that is required to be protected by that agreement. The Department receives this information in furtherance of the missions of the Department, including, but not limited to, support of the Fusion Center Initiative and activities for cyber information sharing consistent with the Cybersecurity Information Sharing Act of 2015;

(5) Homeland Security Enforcement Information means unclassified information of a sensitive nature lawfully created, possessed, or transmitted by the Department of Homeland Security in furtherance of its immigration, customs, and other civil and criminal enforcement missions, the unauthorized disclosure of which could adversely impact the mission of the Department;

(6) International Agreement Information means information the Department of Homeland Security receives that is required to be protected by an information sharing agreement or arrangement with a foreign government, an international organization of governments or any element thereof, an international or foreign public or judicial body, or an international or foreign private or non-governmental organization;

(7) Information Systems Vulnerability Information (ISVI) means:

- (i) Department of Homeland Security information technology (IT) systems data revealing infrastructure used for servers, desktops, and networks; applications name, version, and release; switching, router, and gateway information; interconnections and access methods; and mission or business use/need. Examples of ISVI are systems inventories and enterprise architecture models. Information pertaining to national security systems and eligible for classification under Executive Order 13526 will be classified as appropriate; and/or
- (ii) Information regarding developing or current technology, the release of which could hinder the objectives of the Department, compromise a technological advantage or countermeasure, cause a denial of service, or provide an adversary with sufficient information to clone, counterfeit, or circumvent a process or system;
- (8) Operations Security Information means Department of Homeland Security information that could be collected, analyzed, and exploited by a foreign adversary to identify intentions, capabilities, operations, and vulnerabilities that threaten operational security for the missions of the Department;
- (9) Personnel Security Information means information that could result in physical risk to Department of Homeland Security personnel or other individuals whom the Department is responsible for protecting;
- (10) Physical Security Information means reviews or reports illustrating or disclosing facility infrastructure or security vulnerabilities related to the protection of Federal buildings, grounds, or property. For example, threat assessments, system security plans, contingency plans, risk management plans, business impact analysis studies, and certification and accreditation documentation;
- (11) Privacy Information includes both Personally Identifiable Information (PII) and Sensitive Personally Identifiable Information (SPII). PII refers to information that can be used to distinguish or trace an individual's identity, either alone, or when combined with other information that is linked or linkable to a specific individual; and SPII is a subset of PII that if lost, compromised, or disclosed without authorization could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. To determine whether information is PII, DHS will perform an assessment of the specific risk that an individual can be identified using the information with other information that is linked or linkable to the individual. In performing this assessment, it is important to recognize that information that is not PII can become PII whenever additional information becomes available, in any medium or from any source, that would make it possible to identify an individual. Certain data elements are particularly sensitive and may alone present an increased risk of harm to the individual.
- (i) Examples of stand-alone PII that are particularly sensitive include: Social Security numbers (SSNs), driver's license or State identification numbers, Alien Registration Numbers (A-numbers), financial account numbers, and biometric identifiers.
- (ii) Multiple pieces of information may present an increased risk of harm to the individual when combined, posing an increased risk of harm to the individual. SPII may also consist of any grouping of information that contains an individual's name or other unique identifier plus one or more of the following elements:
- (A) Truncated SSN (such as last 4 digits);
  - (B) Date of birth (month, day, and year);
  - (C) Citizenship or immigration status;
  - (D) Ethnic or religious affiliation;
  - (E) Sexual orientation;
  - (F) Criminal history;
  - (G) Medical information; and
  - (H) System authentication information, such as mother's birth name, account passwords, or personal identification numbers (PINs).
- (iii) Other PII that may present an increased risk of harm to the individual depending on its context, such as a list of employees and their performance ratings or an unlisted home address or phone number. The context includes the purpose for which the PII was collected, maintained, and used. This assessment is critical because the same information in different contexts can reveal additional information about the impacted individual.
- (b) Information Resources means information and related resources, such as personnel, equipment, funds, and information technology.
- (c) Contractor employees working on this contract must complete such forms as may be necessary for security or other reasons, including the conduct of background investigations to determine suitability. Completed forms shall be submitted as directed by the Contracting Officer. Upon the Contracting Officer's request, the Contractor's employees shall be fingerprinted or subject to other investigations as required. All Contractor employees requiring recurring access to government facilities or access to CUI or information resources are required to have a favorably adjudicated background investigation prior to commencing work on this contract unless this requirement is waived under departmental procedures.
- (d) The Contracting Officer may require the Contractor to prohibit individuals from working on the contract if the Government

deems their initial or continued employment contrary to the public interest for any reason, including, but not limited to, carelessness, insubordination, incompetence, or security concerns.

(e) Work under this contract may involve access to CUI. The Contractor shall access and use CUI only for the purpose of furnishing advice or assistance directly to the Government in support of the Government's activities, and shall not disclose, orally or in writing, CUI for any other purpose to any person unless authorized in writing by the Contracting Officer. For those Contractor employees authorized to access CUI, the Contractor shall ensure that these persons receive initial and refresher training concerning the protection and disclosure of CUI. Initial training shall be completed within 60 days of contract award and refresher training shall be completed every 2 years thereafter.

(f) The Contractor shall include this clause in all subcontracts at any tier where the subcontractor may have access to government facilities, CUI, or information resources.

**(End of clause)**

### **3052.209-70 Prohibition on contracts with corporate expatriates Basic (Jun 2006)**

### **3052.212-70 Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items. (SEP 2012)**

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference: (The Contracting Officer should either check the provisions and clauses that apply or delete the provisions and clauses that do not apply from the list. The Contracting Officer may add the date of the provision or clause if desired for clarity.)

Provisions.

☐ 3052.216-70 Evaluation of Offers Subject to An Economic Price Adjustment Clause.

☐ 3052.219-72 Evaluation of Prime Contractor Participation in the DHS Mentor Protégé Program.

☐ 3052.247-70 F.o.B. Origin Information. ☐ Alternate I

☐ Alternate II

☐ 3052.247-71 F.o.B. Origin Only.

☐ 3052.247-72 F.o.B. Destination Only.

Clauses.

☐ 3052.203-70 Instructions for Contractor Disclosure of Violations.

☐ 3052.204-70 Security Requirements for Unclassified Information Technology Resources.

☒ 3052.204-71 Contractor Employee Access. ☐ Alternate I

☒ 3052.205-70 Advertisement, Publicizing Awards, and Releases. ☐ Alternate I

☐ 3052.209-72 Organizational Conflicts of Interest. ☐ 3052.209-73 Limitation on Future Contracting.

☐ 3052.215-70 Key Personnel or Facilities.

☐ 3052.216-71 Determination of Award Fee. ☐ 3052.216-72 Performance Evaluation Plan. ☐ 3052.216-73 Distribution of Award Fee.

☐ 3052.217-91 Performance. (USCG)

☐ 3052.217-92 Inspection and Manner of Doing Work. (USCG)

☐ 3052.217-93 Subcontracts. (USCG) ☐ 3052.217-94 Lay Days. (USCG)

☐ 3052.217-95 Liability and Insurance. (USCG) ☐ 3052.217-96 Title. (USCG)

☐ 3052.217-97 Discharge of Liens. (USCG) ☐ 3052.217-98 Delays. (USCG)

☐ 3052.217-99 Department of Labor Safety and Health Regulations for Ship Repair. (USCG)

☐ 3052.217-100 Guarantee. (USCG)

☐ 3052.219-71 DHS Mentor Protégé Program.

☒ 3052.228-70 Insurance.

☐ 3052.228-90 Notification of Miller Act Payment Bond Protection. (USCG)

☐ 3052.228-91 Loss of or Damage to Leased Aircraft. (USCG) ☐ 3052.228-92 Fair Market Value of Aircraft. (USCG)

☐ 3052.228-93 Risk and Indemnities. (USCG)

☐ 3052.236-70 Special Provisions for Work at Operating Airports.

☒ 3052.242-72 Contracting Officer's Representative.

**(End of clause)**

**J - List of Documents, Exhibits and Other Attachments**

<b>Attachment Number</b>	<b>Title</b>	<b>Date</b>
1	dhs_form_11000-6 non disclosure	
2	23NET0102 Charleston, SC-SOW	
3	Wage Degermation Charleston	07/10/2023



## **K - Representations, Certifications, and Other Statements of Bidders**

### **52.204-8 Annual Representations and Certifications. (MAR 2020)**

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 238210.

(2) The small business size standard is \$16.5 M.

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b)(1) If the provision at 52.204-7, System for Award Management, is included in this solicitation, paragraph (d) of this provision applies.

(2) If the provision at 52.204-7, System for Award Management, is not included in this solicitation, and the Offeror has an active registration in the System for Award Management (SAM), the Offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:

\_\_\_\_(i) Paragraph (d) applies.

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

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

(i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless-

(A) The acquisition is to be made under the simplified acquisition procedures in Part 13;

(B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or

(C) The solicitation is for utility services for which rates are set by law or regulation.

(ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.

- (iii) 52.203-18, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation. This provision applies to all solicitations.
- (iv) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include provision at 52.204-7, System for Award Management.
- (v) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that-
- (A) Are not set aside for small business concerns;
  - (B) Exceed the simplified acquisition threshold; and
  - (C) Are for contracts that will be performed in the United States or its outlying areas.
- (vi) 52.204-26, Covered Telecommunications Equipment or Services-Representation. This provision applies to all solicitations.
- (vii) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations-Representation.
- (viii) 52.209-5, Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.
- (ix) 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.
- (x) 52.214-14, Place of Performance-Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.
- (xi) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.
- (xii) 52.219-1, Small Business Program Representations (Basic, Alternates I, and II). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.
- (A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

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

(xiii) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

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

(xv) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.

(xvi) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

(xvii) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

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

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

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

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

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$83,099, the provision with its Alternate II applies.

(D) If the acquisition value is \$83,099 or more but is less than \$100,000, the provision with its Alternate III applies.

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

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

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

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

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

(Contracting Officer check as appropriate.)

☐ (i) 52.204-17, Ownership or Control of Offeror.

☐ (ii) 52.204-20, Predecessor of Offeror.

☐ (iii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.

☐ (iv) 52.222-48, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Certification.

☐ (v) 52.222-52, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification.

☐ (vi) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).

☐ (vii) 52.227-6, Royalty Information.

[ ] (A) Basic.

[ ] (B) Alternate I.

[ ] (viii) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

(d) The Offeror has completed the annual representations and certifications electronically in SAM accessed through <https://www.sam.gov>. After reviewing the SAM information, the Offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

(End of provision)

**52.204-19 Incorporation by Reference of Representations and Certifications. (DEC 2014)**

**52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment. (OCT 2020)**

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at 52.204-26, Covered Telecommunications Equipment or Services-Representation, or in paragraph (v)(2)(i) of the provision at 52.212-3, Offeror Representations and Certifications-Commercial Items. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at 52.204-26, or in paragraph (v)(2)(ii) of the provision at 52.212-3.

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

*Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component* have the meanings provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

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

- (i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- (ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

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

- (i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- (ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

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

(d) *Representations.* The Offeror represents that-

- (1) It [ ] will, [ ] will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at

paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

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

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

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

(i) For covered equipment-

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

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

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

(ii) For covered services-

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

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use

would be permissible under the prohibition in paragraph (b)(1) of this provision.

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

(i) For covered equipment-

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

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

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

(ii) For covered services-

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

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

(End of provision)

**52.209-2 Prohibition on Contracting With Inverted Domestic Corporations- Representation. (NOV 2015)**

**52.219-1 Small Business Program Representations. (NOV 2020)**

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



*Economically disadvantaged women-owned small business (EDWOSB) concern* means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

*Service-disabled veteran-owned small business concern-*

(1) Means a small business concern-

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

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

(2) *Service-disabled veteran* means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

*Small business concern-*

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (b) of this provision.

(2) *Affiliates*, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

*Small disadvantaged business concern*, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that-

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by-

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States, and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13 CFR 124.106) by individuals who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

*Veteran-owned small business concern* means a small business concern-

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

*Women-owned small business concern* means a small business concern-

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

*Women-owned small business (WOSB) concern eligible under the WOSB Program* (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(b)(1) The North American Industry Classification System (NAICS) code for this acquisition is - [insert NAICS code].

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

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture (*i.e.*, nonmanufacturer), is 500 employees.

(c) *Representations.* (1) The offeror represents as part of its offer that it [ ] is, [ ] is not a small business concern.

(2) *(Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)* The offeror represents that it [ ] is, [ ] is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) *(Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)* The offeror represents as part of its offer that it [ ] is, [ ] is not a women-owned small business concern.

(4) Women-owned small business (WOSB) concern eligible under the WOSB Program. *(Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(3) of this provision.)* The offeror represents as part of its offer that-

(i) It [ ] is, [ ] is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(4)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. (The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture:

\_\_\_\_\_.) Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(5) Economically disadvantaged women-owned small business (EDWOSB) concern. *(Complete only if the offeror represented itself as a women-owned small business concern eligible under the WOSB Program in (c)(4) of this provision.)* The offeror represents as part of its offer that-

(i) It [ ] is, [ ] is not an EDWOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(5)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. (The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture:

\_\_\_\_\_.) Each EDWOSB concern

participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

(6) *(Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)* The offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.

(7) *(Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(6) of this provision.)* The offeror represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.

(8) *(Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)* The offeror represents, as part of its offer, that-

(i) It ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It ☐ is, ☐ is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(8)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. (The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: \_\_\_\_\_.) Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(d) *Notice.* Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a business concern that is small, HUBZone small, small disadvantaged, service-disabled veteran-owned small, economically disadvantaged women-owned small, or women-owned small eligible under the WOSB Program in order to obtain a contract to be awarded under the preference programs established pursuant to section 8, 9, 15, 31, and 36 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall-

(1) Be punished by imposition of fine, imprisonment, or both;

(2) Be subject to administrative remedies, including suspension and debarment; and

(3) Be ineligible for participation in programs conducted under the authority of the Act.

(End of provision)

**52.212-3 Offeror Representations and Certifications-Commercial Items. (FEB 2021)**

The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically in the System for Award Management (SAM) accessed through <https://www.sam.gov>. If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (v)) of this provision.

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

*Covered telecommunications equipment or services* has the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

*Economically disadvantaged women-owned small business (EDWOSB) concern* means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business eligible under the WOSB Program.

*Forced or indentured child labor* means all work or service-

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

*Highest-level owner* means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.

*Immediate owner* means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: Ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

*Inverted domestic corporation* means a foreign incorporated entity that meets the definition of an inverted domestic corporation under 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

*Manufactured end product* means any end product in product and service codes (PSCs) 1000-9999, except-

- (1) PSC 5510, Lumber and Related Basic Wood Materials;
- (2) Product or Service Group (PSG) 87, Agricultural Supplies;
- (3) PSG 88, Live Animals;
- (4) PSG 89, Subsistence;
- (5) PSC 9410, Crude Grades of Plant Materials;
- (6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) PSC 9610, Ores;
- (9) PSC 9620, Minerals, Natural and Synthetic; and
- (10) PSC 9630, Additive Metal Materials.

*Place of manufacture* means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

*Predecessor* means an entity that is replaced by a successor and includes any predecessors of the predecessor.

*Reasonable inquiry* has the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

*Restricted business operations* means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate-

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

*Sensitive technology-*

- (1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically-
  - (i) To restrict the free flow of unbiased information in Iran; or
  - (ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and
- (2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

*Service-disabled veteran-owned small business concern-*

- (1) Means a small business concern-
  - (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
  - (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
- (2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

*Small business concern-*

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and size standards in this solicitation.

(2) *Affiliates*, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

*Small disadvantaged business concern*, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that-

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by-

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

*Subsidiary* means an entity in which more than 50 percent of the entity is owned-

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

*Successor* means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term "successor" does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

*Veteran-owned small business concern* means a small business concern-

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned



business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

*Women-owned business concern* means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

*Women-owned small business concern* means a small business concern-

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

*Women-owned small business (WOSB) concern eligible under the WOSB Program* (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(b)(1) *Annual Representations and Certifications.* Any changes provided by the Offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications in SAM.

(2) The offeror has completed the annual representations and certifications electronically in SAM accessed through <http://www.sam.gov>. After reviewing SAM information, the Offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications-Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard(s) applicable to the NAICS code(s) referenced for this solicitation), at the time this offer is submitted and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs \_\_\_\_\_.

*[Offeror to identify the applicable paragraphs at (c) through (v) of this provision that the offeror has completed for the purposes of this solicitation only, if any.*

*These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.*

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

(c) Offerors must complete the following representations when the resulting contract will be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it \_\_\_ is, \_\_\_ is not a small business concern.

(2) *Veteran-owned small business concern.* (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents as part of its offer that it \_\_\_ is, \_\_\_ is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern.* (Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.) The offeror represents as part of its offer that it \_\_\_ is, \_\_\_ is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern.* (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents that it \_\_\_ is, \_\_\_ is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern.* (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents that it \_\_\_ is, \_\_\_ is not a women-owned small business concern.

(6) *WOSB concern eligible under the WOSB Program.* (Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(5) of this provision.) The offeror represents that-

(i) It \_\_\_ is, \_\_\_ is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It \_\_\_ is, \_\_\_ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. (*The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture:*

\_\_\_\_\_.) Each WOSB

concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) *Economically disadvantaged women-owned small business (EDWOSB) concern.* (Complete only if the offeror represented itself as a WOSB concern eligible under the WOSB Program in (c)(6) of this provision.) The offeror represents that-

(i) It \_\_\_\_ is, \_\_\_\_ is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It \_\_\_\_ is, \_\_\_\_ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. (*The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture:* \_\_\_\_\_.) Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

**Note to paragraphs (c)(8) and (9):** Complete paragraphs (c)(8) and (9) only if this solicitation is expected to exceed the simplified acquisition threshold.

(8) *Women-owned business concern (other than small business concern).* (Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents that it \_\_\_\_ is, a women-owned business concern.

(9) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price: \_\_\_\_\_.

(10) *HUBZone small business concern.* (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents, as part of its offer, that-

(i) It \_\_\_\_ is, \_\_\_\_ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage

have occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It \_\_\_\_ is, \_\_\_\_ is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. (The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: \_\_\_\_\_.) Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(d) Representations required to implement provisions of Executive Order 11246-

(1) *Previous contracts and compliance.* The offeror represents that-

(i) It \_\_\_\_ has, \_\_\_\_ has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It \_\_\_\_ has, \_\_\_\_ has not filed all required compliance reports.

(2) *Affirmative Action Compliance.* The offeror represents that-

(i) It \_\_\_\_ has developed and has on file, \_\_\_\_ has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

(ii) It \_\_\_\_ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions* (31 U.S.C. 1352). (Applies only if the contract is expected to exceed \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American Certificate.* (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American-Supplies, is included in this solicitation.)

(1)(i) The Offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product.

(ii) The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

(iii) The terms "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American-Supplies."

(2) Foreign End Products:

Line item No.	Country of origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(g)(1) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate.*

(Applies only if the clause at FAR 52.225-3, Buy American-Free Trade Agreements-Israeli Trade Act, is included in this solicitation.)

(i)(A) The Offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (iii) of this provision, is a domestic end product.

(B) The terms "Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product," "domestic end product," "end product," "foreign end product," "Free Trade Agreement country," "Free Trade Agreement country end product," "Israeli end product," and "United States" are defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act."

(ii) The Offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation

entitled "Buy American-Free Trade Agreements-Israeli Trade Act."

Line item No.	Country of origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iii) The Offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act." The Offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

*Other Foreign End Products:*

Line item No.	Country of origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(2) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate, Alternate I.* If Alternate I to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act":

Canadian End Products:

Line item No.
_____
_____

--

[List as necessary]

(3) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate, Alternate II.* If Alternate II to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act":

Canadian or Israeli End Products:

Line item No.	Country of origin

[List as necessary]

(g)(4) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate, Alternate III.* If Alternate III to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act":

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

Line item No.	Country of origin

[List as necessary]

(5) *Trade Agreements Certificate*. (Applies only if the clause at FAR 52.225-5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(5)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled "Trade Agreements".

(ii) The offeror shall list as other end products those end products that are not U.S.-made or designated country end products.

Other End Products:

Line item No.	Country of origin
_____	_____
_____	_____
_____	_____

[List as necessary]

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

(h) *Certification Regarding Responsibility Matters* (Executive Order 12689). (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals-

(1) \_\_\_Are, \_\_\_are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) \_\_\_Have, \_\_\_have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property,



(3) \_\_\_Are, \_\_\_are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4) \_\_\_Have, \_\_\_have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at 9.104-5(a)(2) for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) *Examples.* (A) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

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

(C) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely

payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

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

(i) Certification Regarding Knowledge of Child Labor for *Listed End Products* (Executive Order 13126). (The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at 22.1503(b).)

(1) *Listed end products.*

Listed end product	Listed countries of origin
[ ]	[ ]
[ ]	[ ]
[ ]	[ ]

[List as necessary]

(2) *Certification.* (If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.)

\_\_\_(i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

\_\_\_(ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) *Place of manufacture.* (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly-

(1) \_\_\_\_ In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2) \_\_\_\_ Outside the United States.

(k) *Certificates regarding exemptions from the application of the Service Contract Labor Standards.* (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) (The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.)

(1) [ ] Maintenance, calibration, or repair of certain equipment as described in FAR 22.1003-4(c)(1). The offeror \_\_\_\_ does \_\_\_\_ does not certify that-

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR 22.1003-4(c)(2)(ii)) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

(2) [ ] Certain services as described in FAR 22.1003-4(d)(1). The offeror \_\_\_\_ does \_\_\_\_ does not certify that-

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR 22.1003-4(d)(2)(iii));

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on

an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies-

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(l) *Taxpayer Identification Number (TIN)* (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to SAM to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *Taxpayer Identification Number (TIN)*.

☐ TIN: \_\_\_\_\_.

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the

conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization.*

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ Foreign government;

☐ International organization per 26 CFR 1.6049-4;

☐ Other \_\_\_\_\_.

(5) *Common parent.*

☐ Offeror is not owned or controlled by a common parent;

☐ Name and TIN of common parent:

Name \_\_\_\_\_.

TIN \_\_\_\_\_.

(m) *Restricted business operations in Sudan.* By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) *Prohibition on Contracting with Inverted Domestic Corporations.* (1) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at 9.108-2(b) applies or the requirement is waived in accordance with the procedures at 9.108-4.

(2) *Representation.* The Offeror represents that-

(i) It \_\_\_\_ is, \_\_\_\_ is not an inverted domestic corporation; and

(ii) It \_\_\_\_ is, \_\_\_\_ is not a subsidiary of an inverted domestic corporation.

(o) *Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.* (1) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(2) *Representation and certifications.* Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror-

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds the threshold at FAR 25.703-2(a)(2) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

(3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if-

(i) This solicitation includes a trade agreements certification (e.g., 52.212-3(g) or a comparable agency provision); and

(ii) The offeror has certified that all the offered products to be supplied are designated country end products.

(p) *Ownership or Control of Offeror.* (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a unique entity identifier in the solicitation).

(1) The Offeror represents that it \_\_\_\_has or \_\_\_\_does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.

(2) If the Offeror indicates "has" in paragraph (p)(1) of this provision, enter the following information:

Immediate owner CAGE code: [ ].

Immediate owner legal name: [(Do not use a 'doing business as' name)].

Is the immediate owner owned or controlled by another entity: [ ] Yes or [ ] No.

(3) If the Offeror indicates "yes" in paragraph (p)(2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest-level owner CAGE code: [ ].

Highest-level owner legal name: [(Do not use a 'doing business as' name)].

(q) *Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.* (1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that-

(i) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(2) The Offeror represents that-

(i) It is \_\_\_ is not \_\_\_ a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(ii) It is \_\_\_\_ is not \_\_\_\_ a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(r) *Predecessor of Offeror.* (Applies in all solicitations that include the provision at 52.204-16, Commercial and Government Entity Code Reporting.)

(1) The Offeror represents that it \_\_\_\_ is or \_\_\_\_ is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(2) If the Offeror has indicated "is" in paragraph (r)(1) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: \_\_\_\_\_ (or mark "Unknown").

Predecessor legal name: \_\_\_\_\_ (Do not use a "doing business as" name).

(s) (Reserved)

(t) *Public Disclosure of Greenhouse Gas Emissions and Reduction Goals.* Applies in all solicitations that require offerors to register in SAM (12.301(d)(1)).

(1) This representation shall be completed if the Offeror received \$7.5 million or more in contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(2) *Representation.* (Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)). (i) The Offeror (itself or through its immediate owner or highest-level owner) \_\_\_\_ does, \_\_\_\_ does not publicly disclose greenhouse gas emissions, *i.e.*, makes available on a publicly accessible Web site the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

(ii) The Offeror (itself or through its immediate owner or highest-level owner) \_\_\_\_ does, \_\_\_\_ does not publicly disclose a quantitative greenhouse gas emissions reduction goal, *i.e.*, make available on a publicly accessible Web site a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.



(iii) A publicly accessible Web site includes the Offeror's own Web site or a recognized, third-party greenhouse gas emissions reporting program.

(3) If the Offeror checked "does" in paragraphs (t)(2)(i) or (t)(2)(ii) of this provision, respectively, the Offeror shall provide the publicly accessible Web site(s) where greenhouse gas emissions and/or reduction goals are reported.

(u)(1) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(2) The prohibition in paragraph (u)(1) of this provision does not contravene requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(3) *Representation.* By submission of its offer, the Offeror represents that it will not require its employees or subcontractors to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a Government contract to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (e.g., agency Office of the Inspector General).

(v) *Covered Telecommunications Equipment or Services-Representation.* Section 889(a)(1)(A) and section 889 (a)(1)(B) of Public Law 115-232.

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

(2) The Offeror represents that-

(i) It ☐ does, ☐ does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(ii) After conducting a reasonable inquiry for purposes of this representation, that it [ ] does, [ ] does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

**(End of provision)**

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

## **L - Instructions, Conditions, and Notices to Bidders**

Fill out the DHS Form Nondisclosure Closure entirely and then submit it along with your bid.

### **52.212-1 Instructions to Offerors - Commercial Items. (JUN 2020)**

(a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code(s) and small business size standard(s) for this acquisition appear elsewhere in the solicitation. However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

(b) *Submission of offers.* Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show-

- (1) The solicitation number;
- (2) The time specified in the solicitation for receipt of offers;
- (3) The name, address, and telephone number of the offeror;
- (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
- (5) Terms of any express warranty;
- (6) Price and any discount terms;
- (7) "Remit to" address, if different than mailing address;
- (8) A completed copy of the representations and certifications at FAR 52.212-3 (see FAR 52.212-3(b) for those representations and certifications that the offeror shall complete electronically);
- (9) Acknowledgment of Solicitation Amendments;
- (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
- (11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

(c) *Period for acceptance of offers.* The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(d) *Product samples.* When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.

(e) *Multiple offers.* Offerors are encouraged to submit multiple offers presenting alternative terms and conditions, including alternative line items (provided that the alternative line items are consistent with subpart 4.10 of the Federal Acquisition Regulation), or alternative commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

(f) *Late submissions, modifications, revisions, and withdrawals of offers.* (1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

(2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and-

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

(a) *Contract award (not applicable to Invitation for Bids)*. The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

(b) *Multiple awards*. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(c) *Availability of requirements documents cited in the solicitation*. (1)(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to- GSA Federal Supply Service Specifications Section, Suite 8100, 470 East L'Enfant Plaza, SW, Washington, DC 20407, Telephone (202) 619-8925, Facsimile (202) 619-8978.

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites:

(i) ASSIST (<https://assist.dla.mil/online/start/>).

(ii) Quick Search (<http://quicksearch.dla.mil/>).

(iii) ASSISTdocs.com (<http://assistdocs.com>).

(3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by-

(i) Using the ASSIST Shopping Wizard  
(<https://assist.dla.mil/wizard/index.cfm>);

(ii) Phoning the DoDSSP Customer Service Desk (215) 697-2179, Mon-Fri, 0730 to 1600 EST; or

(iii) Ordering from DoDSSP, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.

(4) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(d) Unique entity identifier. (Applies to all offers that exceed the micro-purchase threshold, and offers at or below the micro-purchase threshold if the solicitation requires the Contractor to be registered in the System for Award Management (SAM).) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address. The Offeror also shall enter its Electronic Funds Transfer (EFT) indicator, if applicable. The EFT indicator is a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the Offeror to establish additional SAM records for identifying alternative EFT accounts see FAR subpart 32.11) for the same entity. If the Offeror does not have a unique entity identifier, it should contact the entity designated at [www.sam.gov](http://www.sam.gov) for unique entity identifier establishment directly to obtain one. The Offeror should indicate that it is an offeror for a Government contract when contacting the entity designated at [www.sam.gov](http://www.sam.gov) for establishing the unique entity identifier.

(e) (Reserved)

(f) Debriefing. If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

- (1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.
- (2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.
- (3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.
- (4) A summary of the rationale for award;
- (5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.
- (6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

**(End of provision)**

**52.212-2 Evaluation - Commercial Items. (OCT 2014)**

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers: Price

**(End of provision)**

**52.216-1 Type of Contract. (APR 1984)**

The Government contemplates award of a Firm Fixed Price contract resulting from this solicitation.

**(End of provision)**