

PART IV – REPRESENTATIONS AND INSTRUCTIONS

SECTION K

**REPRESENTATIONS, CERTIFICATIONS, AND
OTHER STATEMENTS OF OFFERORS**

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OTHER STATEMENTS OF OFFERORS**

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SECTION K

**REPRESENTATIONS, CERTIFICATIONS, AND
OTHER STATEMENTS OF OFFERORS**

K.1 FAR 52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)

(a) *Definitions.*

Common parent, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

Taxpayer Identification Number (TIN), as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) 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 IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) 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.

(d) *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.

(e) *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 _____.

(f) *Common parent.*

- Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

Name and TIN of common parent:

Name _____

TIN _____

(End of Provision)

K.2 FAR 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (MAR 2023)

- (a) (1) The North American Industry Classification System (NAICS) code for this acquisition is 561210.
- (2) The small business size standard is \$35.5 million.

- (3) The small business size standard for a concern that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce is 500 employees, or 150 employees for information technology value-added resellers under NAICS code 541519 if the acquisition—
 - (i) Is set aside for small business and has a value above the simplified acquisition threshold;
 - (ii) Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or
 - (iii) Is an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

- (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 the 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 is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied part 19 in accordance with 19.000(b)(1)(ii).
 - (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 is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied part 19 in accordance with 19.000(b)(1)(ii).
- (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 products or commercial services.
- (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 II and III.) This provision applies to solicitations containing the clause at 52.225-3.
 - (A) If the acquisition value is less than \$50,000, the basic provision applies.
 - (B) If the acquisition value is \$50,000 or more but is less than \$92,319, the provision with its Alternate II applies.
 - (C) If the acquisition value is \$92,319 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 website 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.

<u>FAR Clause</u>	<u>Title</u>	<u>Date</u>	<u>Change</u>

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 on SAM.

(End of Provision)

K.3 FAR 52.204-24 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021)

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 Products or Commercial Services. 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) Representation. 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)

K.4 FAR 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (OCT 2018)

(a) Definitions. As used in this provision—

“Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

“Federal contracts and grants with total value greater than \$10,000,000” means—

- (1) The total value of all current, active contracts and grants, including all priced options; and
- (2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

- (b) The offeror [] has [] does not have current active Federal contracts and grants with total value greater than \$10,000,000.
- (c) If the offeror checked "has" in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:
 - (1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:
 - (i) In a criminal proceeding, a conviction.
 - (ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

- (iii) In an administrative proceeding, a finding of fault and liability that results in—
 - (A) The payment of a monetary fine or penalty of \$5,000 or more; or
 - (B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.
 - (iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.
- (2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.
- (d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management, which can be accessed via <https://www.sam.gov> (see [52.204-7](#)).

(End of Provision)

K.5 FAR 52.209-13 VIOLATION OF ARMS CONTROL TREATIES OR AGREEMENTS CERTIFICATION (NOV 2021)

- (a) This provision does not apply to acquisitions at or below the simplified acquisition threshold or to acquisitions of commercial products and commercial services as defined in Federal Acquisition Regulation [2.101](#).

(b) *Certification.* [Offeror shall check either (1) or (2).]

__ (1) The Offeror certifies that—

- (i) It does not engage and has not engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and

Disarmament Act ([22 U.S.C. 2593a](#)). The report is available at <https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/>; and

- (ii) No entity owned or controlled by the Offeror has engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act ([22 U.S.C. 2593a](#)). The report is available at <https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/>; or

__ (2) The Offeror is providing separate information with its offer in accordance with paragraph (d)(2) of this provision.

- (c) Procedures for reviewing the annual unclassified report (see paragraph (b)(1) of this provision). For clarity, references to the report in this section refer to the entirety of the annual unclassified report, including any separate reports that are incorporated by reference into the annual unclassified report.

- (1) Check the table of contents of the annual unclassified report and the country section headings of the reports incorporated by reference to identify the foreign countries listed there. Determine whether the Offeror or any person owned or controlled by the Offeror may have engaged in any activity related to one or more of such foreign countries.
- (2) If there may have been such activity, review all findings in the report associated with those foreign countries to determine whether or not each such foreign country was determined to be in violation of its obligations undertaken in an arms control, nonproliferation, or disarmament agreement to which the United States is a party, or to be not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. For clarity, in the annual report an explicit certification of non-compliance is equivalent to a determination of violation. However, the following statements in the annual report are not equivalent to a determination of violation:

- (iii) An inability to certify compliance.

- (iv) An inability to conclude compliance.

- (v) A statement about compliance concerns.
- (3) If so, determine whether the Offeror or any person owned or controlled by the Offeror has engaged in any activity that contributed to or is a significant factor in the determination in the report that one or more of these foreign countries is in violation of its obligations undertaken in an arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. Review the narrative for any such findings reflecting a determination of violation or non-adherence related to those foreign countries in the report, including the finding itself, and to the extent necessary, the conduct giving rise to the compliance or adherence concerns, the analysis of compliance or adherence concerns, and efforts to resolve compliance or adherence concerns.
 - (4) The Offeror may submit any questions with regard to this report by email to NDAA1290Cert@state.gov. To the extent feasible, the Department of State will respond to such email inquiries within 3 business days.
- (d) Do not submit an offer unless—
- (1) A certification is provided in paragraph (b)(1) of this provision and submitted with the offer; or
 - (2) In accordance with paragraph (b)(2) of this provision, the Offeror provides with its offer information that the President of the United States has
 - (i) Waived application under [22 U.S.C. 2593e\(d\)](#) or (e); or
 - (ii) Determined under [22 U.S.C. 2593e\(g\)\(2\)](#) that the entity has ceased all activities for which measures were imposed under [22 U.S.C. 2593e\(b\)](#).
- (e) *Remedies*. The certification in paragraph (b)(1) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly submitted a false certification, in addition to other remedies available to the Government, such as suspension or debarment, the Contracting Officer may terminate any contract resulting from the false certification.

(End of Provision)

K.6 FAR 52.230-1 COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATIONS (JUN 2020)

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. Disclosure Statement - Cost Accounting Practices and Certification

- (a) Any contract in excess of the lower CAS threshold specified in Federal Acquisition Regulation (FAR) 30.201-4(b) resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.
- (b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

Caution: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

- (c) Check the appropriate box below:

(1) *Certificate of Concurrent Submission of Disclosure Statement.*
The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows:

- (i) Original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable; and

(ii) One copy to the cognizant Federal auditor.

(Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official.)

Date of Disclosure Statement: _____ Name and Address of Cognizant ACO or Federal Official Where Filed: _____

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

(2) *Certificate of Previously Submitted Disclosure Statement.* The offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____

Name and Address of Cognizant ACO or Federal Official Where Filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

(3) *Certificate of Monetary Exemption.* The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling \$50 million or more in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

(4) *Certificate of Interim Exemption.* The offeror hereby certifies that (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under paragraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

Caution: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. Cost Accounting Standards - Eligibility for Modified Contract Coverage

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$50 million in awards of CAS-covered prime contracts and subcontracts. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

Caution: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$50 million or more.

III. Additional Cost Accounting Standards Applicable to Existing Contracts

The offeror shall indicate below whether award of the contemplated contract would, in accordance with paragraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

Yes No

(End of Provision)

K.7 FAR 52.230-7 PROPOSAL DISCLOSURE – COST ACCOUNTING PRACTICE CHANGES (APR 2005)

The offeror shall check yes below if the contract award will result in a required or unilateral change in cost accounting practice, including unilateral changes requested to be desirable changes.

Yes No

If the offeror checked Yes above, the offeror shall—

- (1) Prepare the price proposal in response to the solicitation using the changed practice for the period of performance for which the practice will be used; and
- (2) Submit a description of the changed cost accounting practice to the Contracting Officer and the Cognizant Federal Agency Official as pricing support for the proposal.

(End of Provision)

K.8 DEAR 952.204-73 FACILITY CLEARANCE (AUG 2016)

NOTICES

Section 2536 of title 10, United States Code, prohibits the award of a contract under a national security program to an entity controlled by a foreign government if it is necessary for that entity to be given access to information in a proscribed category of information in order to perform the contract unless a waiver is granted by the Secretary of Energy. In addition, a Facility Clearance and foreign ownership, control and influence (FOCI) information are required when the contract or subcontract to be awarded is expected to require employees to have access authorizations.

Offerors who have either a Department of Defense or a Department of Energy Facility Clearance generally need not resubmit the following foreign ownership information unless specifically requested to do so. Instead, provide your DOE Facility Clearance code or your DOD assigned commercial and government entity (CAGE) code. If uncertain, consult the office which issued this solicitation.

- (a) Use of Certificate Pertaining to Foreign Interests, Standard Form 328.
 - (1) The contract work anticipated by this solicitation will require access to classified information or special nuclear material. Such access will require a Facility Clearance for the Contractor's organization and access authorizations (security clearances) for Contractor personnel working with the classified information or special nuclear material. To obtain a Facility Clearance the Contractor must submit the Standard Form 328, Certificate Pertaining to Foreign Interests, and all required supporting documents to form a complete Foreign Ownership, Control or Influence (FOCI) Package. The Contractor will submit the Foreign Ownership, Control or Influence (FOCI) information

in the format directed by DOE. When completed the Contractor must print and sign one copy of the SF 328 and submit it to the Contracting Officer.

- (2) Information submitted by the offeror in response to the Standard Form 328 will be used solely for the purposes of evaluating foreign ownership, control or influence and will be treated by DOE, to the extent permitted by law, as business or financial information submitted in confidence.
- (3) Following submission of a Standard Form 328 and prior to contract award, the Contractor shall immediately submit to the Contracting Officer written notification of any changes in the extent and nature of FOCI which could affect the offeror's answers to the questions in Standard Form 328. Following award of a contract, the Contractor must immediately submit to the cognizant security office written notification of any changes in the extent and nature of FOCI which could affect the offeror's answers to the questions in Standard Form 328. Notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice must also be furnished concurrently to the cognizant security office.

(b) Definitions

- (1) Foreign Interest means any of the following-
 - (i) A foreign government, foreign government agency, or representative of a foreign government;
 - (ii) Any form of business enterprise or legal entity organized, chartered or incorporated under the laws of any country other than the United States or its possessions and trust territories; and
 - (iii) Any person who is not a citizen or national of the United States.
- (2) Foreign Ownership, Control, or Influence (FOCI) means the situation where the degree of ownership, control, or influence over a Contractor by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information or special nuclear material may result.
- (c) Facility Clearance means an administrative determination that a facility is eligible to access, produce, use or store classified information, or special nuclear material. A Facility Clearance is based upon a determination that satisfactory safeguards and security measures are carried out for the activities being performed at the facility. It is DOE policy that all Contractors or Subcontractors requiring access authorizations be processed for a Facility Clearance at the level appropriate to the activities being performed under the contract. Approval for a Facility Clearance shall be based upon-

- (1) A favorable foreign ownership, control, or influence (FOCI) determination based upon the Contractor's response to the ten questions in Standard Form 328 and any required, supporting data provided by the Contractor;
 - (2) A contract or proposed contract containing the appropriate security clauses;
 - (3) Approved safeguards and security plans which describe protective measures appropriate to the activities being performed at the facility;
 - (4) An established Reporting Identification Symbol code for the Nuclear Materials Management and Safeguards Reporting System if access to nuclear materials is involved;
 - (5) A survey conducted no more than 6 months before the Facility Clearance date, with a composite facility rating of satisfactory, if the facility is to possess classified matter or special nuclear material at its location;
 - (6) Appointment of a Facility Security Officer, who must possess or be in the process of obtaining an access authorization equivalent to the Facility Clearance; and, if applicable, appointment of a Materials Control and Accountability Representative; and
 - (7) Access authorizations for key management personnel who will be determined on a case-by-case basis, and must possess or be in the process of obtaining access authorizations equivalent to the level of the Facility Clearance.
- (d) A Facility Clearance is required prior to the award of a contract requiring access to classified information and the granting of any access authorizations under a contract. Prior to award of a contract, the DOE must determine that award of the contract to the offeror will not pose an undue risk to the common defense and security as a result of its access to classified information or special nuclear material in the performance of the contract. The Contracting Officer may require the offeror to submit such additional information as deemed pertinent to this determination.
- (e) A Facility Clearance is required even for contracts that do not require the Contractor's corporate offices to receive, process, reproduce, store, transmit, or handle classified information or special nuclear material, but which require DOE access authorizations for the Contractor's employees to perform work at a DOE location. This type facility is identified as a non-possessing facility.
- (f) Except as otherwise authorized in writing by the Contracting Officer, the provisions of any resulting contract must require that the Contractor insert provisions similar to the foregoing in all subcontracts and purchase orders. Any Subcontractors requiring access authorizations for access to classified information or special nuclear material shall be directed to provide responses to the questions in Standard Form 328,

Certificate Pertaining to Foreign Interests, directly to the prime Contractor or the Contracting Officer for the prime contract.

NOTICE TO OFFERORS-CONTENTS REVIEW

(PLEASE REVIEW BEFORE SUBMITTING)

Prior to submitting the Standard Form 328, required by paragraph (a)(1) of this clause, the offeror should review the FOCI submission to ensure that:

- (1) The Standard Form 328 has been signed and dated by an authorized official of the company;
- (2) If publicly owned, the Contractor's most recent annual report, and its most recent proxy statement for its annual meeting of stockholders have been attached; or, if privately owned, the audited, consolidated financial information for the most recently closed accounting year has been attached;
- (3) A copy of the company's articles of incorporation and an attested copy of the company's by-laws, or similar documents filed for the company's existence and management, and all amendments to those documents;
- (4) A list identifying the organization's owners, officers, directors, and executive personnel, including their names, social security numbers, citizenship, titles of all positions they hold within the organization, and what clearances, if any, they possess or are in the process of obtaining, and identification of the government agency(ies) that granted or will be granting those clearances; and
- (5) A summary FOCI data sheet.

NOTE: A FOCI submission must be attached for each tier parent organization (i.e. ultimate parent and any intervening levels of ownership). If any of these documents are missing, award of the contract cannot be completed.

(End of Provision)

**K.9 DEAR 952.209-8 ORGANIZATIONAL CONFLICTS OF INTEREST
DISCLOSURE – ADVISORY AND ASSISTANCE SERVICES (JUN 1997)**

- (a) Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

- (b) An offeror notified that it is the apparent successful offeror shall provide the statement described in paragraph (c) of this provision. For purposes of this provision, “apparent successful offeror” means the proposer selected for final negotiations or, where individual contracts are negotiated with all firms in the competitive range, it means all such firms.
- (c) The statement must contain the following:
 - (1) A statement of any past (within the past twelve months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the statement of work. For contractual interests, such statement must include the name, address, telephone number of the client or client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the offeror who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to the Government or any other client (including a foreign government or person) respecting the same subject matter of the instant solicitation, or directly relating to such subject matter. The agency and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of the interest and any entity or entities involved in the financial relationship. For these and any other interests enough such information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.
 - (2) A statement that no actual or potential conflict of interest or unfair competitive advantage exists with respect to the advisory and assistance services to be provided in connection with the instant contract or that any actual or potential conflict of interest or unfair competitive advantage that does or may exist with respect to the contract in question has been communicated as part of the statement required by (b) of this provision.
- (d) Failure of the offeror to provide the required statement may result in the offeror being determined ineligible for award. Misrepresentation or failure to report any fact may result in the assessment of penalties associated with false statements or such other provisions provided for by law or regulation.

(End of Provision)

K.10 DEAR 970.5223-3 AGREEMENT REGARDING WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2010)

- (a) Any contract awarded as a result of this solicitation will be subject to the policies, criteria, and procedures of 10 CFR Part 707, Workplace Substance Abuse Programs at DOE Sites.
- (b) By submission of its offer, the offeror agrees to provide to the Contracting Officer, within 30 days after notification of selection for award, or award of a contract, whichever occurs first, pursuant to this solicitation, its written workplace substance abuse program consistent with the requirements of 10 CFR part 707. DOE may grant an extension to the notification or implementation period if necessary as per 10 CFR 707.5(g).
- (c) Failure of the offeror to agree to the condition of responsibility set forth in paragraph (b) of this provision, renders the offeror unqualified and ineligible for award.

(End of Provision)

K.11 CERTIFICATION REGARDING FACILITY CLEARANCE – FOREIGN OWNERSHIP, CONTROL OR INFLUENCE INFORMATION

Please check, as appropriate:

- Submitted Commercial and Government Entity code or facility code if cleared.
- Documentation granting Offeror's subcontractor(s) and/or joint venture facility clearance is attached.
- Draft FOCI Mitigation Plan, if applicable, is attached.
- Facility Clearance request documentation including the following information has been submitted via Foreign Ownership, Control, or Influence (FOCI) Electronic Submission Site at <https://foci.anl.gov/> for Offeror, subcontractor(s) and/or joint venture if not currently cleared:
 - The Standard Form 328 has been signed and dated by an authorized official of the company and the original has been sent to the appropriate FOCI Office.
 - If publicly owned, the Contractor's most recent annual report, and its most recent proxy statement for its annual meeting of stockholders have been attached; or, if privately owned, the audited, consolidated financial information for the most recently closed accounting year has been attached.
 - A copy of the company's articles of incorporation and an attested copy of the company's by-laws, or similar documents filed for the company's existence and management, and all amendments to those documents.

[] A list identifying the organization's owners, officers, directors, and executive personnel, including their names, social security numbers, citizenship, titles of all positions they hold within the organization, and what clearances, if any, they possess or are in the process of obtaining, and identification of the government agency(ies) that granted or will be granting those clearances.

K.12 COST AND FEE PROPOSAL CERTIFICATION

The Government publicly furnished certain cost, pricing, and/or estimating information regarding contract activities and requirements during the solicitation phase of this contract. By submitting a digitally signed offer under this Solicitation, the Offeror certifies that:

- (a) It fully recognizes that such information was not warranted in any manner by the Government as to its accuracy or validity, and was for information only;
- (b) The Government does not represent such information as a preferred price offer under the solicitation; and
- (c) Irrespective of the Government-furnished information, the Offeror's estimated cost and estimated fee, upon which this contract award is based, was independently and fully derived from the Offeror's own estimating methods, that the Offeror assumes full and complete ownership of its offered estimated cost and estimated fee, and that it fully acknowledges that the Government makes no warranties, express or implied, as to the completeness or accuracy of the Government-furnished pricing and estimating information.

K.13 SOLICITATION CERTIFICATION

By submitting its digitally signed offer, the Offeror represents its understanding that Solicitation number 89243523RCR000002 represents the current and complete contracting requirements of the Government for the SPR Management and Operating Contractor Procurement. This Solicitation supersedes in its entirety any prior representations from the Government or attributed to the Government, including, but not necessarily limited to: any information formally provided by the Government prior to release of this Solicitation; remarks made by the Government during, or reported as a result of, industry one-on-one meetings; and any information or conjecture presented by the media, or any other source, on the Government's requirements for this Solicitation.

K.14 SIGNATURE/CERTIFICATION

By signing below, the Offeror certifies, under penalty of law, that the representations and certifications are accurate, current, and complete. The Offeror further certifies that it will notify the Contracting Officer of any changes to the representations and certifications. The representations and certifications made by the Offeror, as contained herein, concern matters within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent representation or certification may render the maker subject to prosecution under Title 18, United States Code Section 1001.

Signature of the Officer or Employee
Responsible for the Offer

Date of Execution

Typed Name and Title of the Officer or
Employee Responsible for the Offer

Name of Organization

Address

City, State, ZIP

Solicitation Number 89243523RCR000002
Management and Operation of the DOE
Strategic Petroleum Reserve