

# **SOLICITATION DOCUMENT**



## **Pay As You Earn (PAYE) Services U.S. Embassy London, United Kingdom**

**SOLICITATION NO. 19GE5023R0105**

**Issued by:**

**U.S. Consulate General  
Regional Procurement Support Office  
Giessener Strasse 30  
60435 Frankfurt am Main  
Germany**

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24 & 30			1. REQUISITION NUMBER		
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER 19GE5023R0105	
7. FOR SOLICITATION INFORMATION CALL:		a. NAME Patticha Gruenbeck		b. TELEPHONE NUMBER (No collect calls) c. EMAIL GruenbeckP@state.gov	8. OFFER DUE DATE / LOCAL TIME 08/16/2023 09/08/2023 15:00

9. ISSUED BY  AMERICAN CONSULATE GENERAL FRANKFURT GIESSENER STRASSE 30 ATTN: RPSO 60435, FRANKFURT, GERMANY		CODE	FRANK	10. THE ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR	
				<input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> EDWOSB <input type="checkbox"/> 8(A)	
				NAICS:  SIZE STANDARD:	

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE		12. DISCOUNT TERMS		13b. RATING	
				13a. THIS CONTRACT IS RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>	
				14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP	

15. DELIVER TO  AMERICAN EMBASSY LONDON 33 Nine Elms Lane, SW11 7US ATTN: RECEIVING OFFICE LONDON, UNITED KINGDOM		CODE	LONDO	16. ADMINISTERED BY RPSO Frankfurt OPE/AQM/IP/RPSO Frankfurt Office of Acquisition (AQM) Frankfurt	
				CODE OPEAQM	

17a. CONTRACTOR/OFFEROR  Contact Telephone No.		CODE		FACILITY CODE		18a. PAYMENT WILL BE MADE BY AMERICAN EMBASSY LONDON 33 Nine Elms Lane, London SW11 7US. ATTN: FMC LONDON, UNITED KINGDOM 1K 6AH	
						CODE OPEAQM	
				UEI:			

<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER				18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
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19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES <i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
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See Line Items Section

25. ACCOUNTING AND APPROPRIATION DATA			26. TOTAL AWARD AMOUNT (For Govt. Use Only)		
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<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 type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN ____ 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: REF. _____ OFFER DATED ____ YOUR OFFER ON SOLICITATION (BLOCK 5) INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:	
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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 THE CONTRACTING OFFICER (TYPE OR PRINT) Nicolas Wilhelm		31c. DATE SIGNED 08/15/2023

Line Item Summary	Solicitation Number: 19GE5023R0105	Contract Number:	Title: GBR - PAYE Services for LE & ORE Staff			Date of Solicitation: 08/15/2023
Line Item No.	Description	Quantity	Unit	Unit Price	Total Cost	
001	<b>Base Year:</b> CLINs 0001-0003 Type of Contract Pricing: FFP Doc Ref No: <b>Delivery Date</b>	1.00	YR	\$0.00	\$0.00	
002	<b>First Option Year:</b> CLINs 1001-1003 Type of Contract Pricing: FFP Doc Ref No: <b>Delivery Date</b>	1.00	YR	\$0.00	\$0.00	
003	<b>Second Option Year:</b> CLINs 2001-2003 Type of Contract Pricing: FFP Doc Ref No: <b>Delivery Date</b>	1.00	YR	\$0.00	\$0.00	
004	<b>Third Option Year:</b> CLINs 3001-3003 Type of Contract Pricing: FFP Doc Ref No: <b>Delivery Date</b>	1.00	YR	\$0.00	\$0.00	
005	<b>Fourth Option Year:</b> CLINs 4001-4003 Type of Contract Pricing: FFP Doc Ref No: <b>Delivery Date</b>	1.00	YR	\$0.00	\$0.00	

**TABLE OF CONTENTS**

Section I - The Schedule

- SF 1449 Cover Sheet
- Continuation to SF-1449, RFP Number 19GE5023R0105, Prices, Block 23
- Continuation to SF-1449, RFP Number 19GE5023R0105, Schedule of Supplies/Services, Block 20 Description/ Specifications/Work Statement
- Attachment 1: W-14 Forms
- Attachment 2: W-14 Instructions
- Attachment 3: C-SCRM Go/No-Go Evaluation Questionnaire

Section II - Contract Clauses

- Contract Clauses
- Addendum to Contract Clauses - FAR and DOSAR Clauses not Prescribed in Part 12

Section III - Solicitation Provisions

- Solicitation Provisions
- Addendum to Solicitation Provisions - FAR and DOSAR Provisions not Prescribed in Part 12

Section IV - Evaluation Factors

- Evaluation Factors
- Addendum to Evaluation Factors - FAR and DOSAR Provisions not Prescribed in Part 12

#### Section V - Representations and Certifications

- Offeror Representations and Certifications
- Addendum to Offeror Representations and Certifications - FAR and DOSAR Provisions not Prescribed in Part 12

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### SECTION I - THE SCHEDULE

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CONTINUATION TO SF-1449  
RFP NUMBER 19GE5023R0105  
PRICES, BLOCK 23

#### I. PERFORMANCE WORK STATEMENT

A. The purpose of this firm fixed price Indefinite-Delivery Indefinite-Quantity (IDIQ) contract is to provide for Pay As You Earn (PAYE) services for the U.S. Embassy London and constituent posts in accordance with the Statement of Work.

B. This is an IDIQ type of contract against which task orders may be placed. The quantities set forth in the pricing section are estimates for evaluation purposes only; the Government does not guarantee that such quantities will be ordered. The contract will be for a one-year period from the date of the contract award, with four (4) one-year options.

C. The Firm-Fixed Price shall include all materials, equipment, labor, overhead, profit, general liability insurance, and transportation necessary to deliver the required services. No additional sums will be payable on account of any escalation in the cost of materials, equipment, transportation, general liability insurance or labor, or because of the Contractor's failure to properly estimate or accurately predict the cost, or difficulty in achieving the results required by this contract. The contract price will not be adjusted because of fluctuations in currency exchange rates. Changes in the contract price, or time to complete, will be made only for changes made by the Government in the work to be performed, or by delays caused by the Government. Any costs not priced will be considered to be included in the overhead and other indirect costs.

D. The Contractor shall be required to reside in the United Kingdom as the services are required to submit mandatory withholdings through Her Majesty's Revenue and Custom's (HMRC) certified payroll software.

E. The general liability policy required of the Contractor shall name "the United States of America" as additional insured. The general liability insurance shall be as required by law or as ordinarily obtained in the location of the work. The limit of such insurance shall be as provided by law or sufficient to meet normal and customary claims. The Contractor agrees that the Government shall not be responsible for personal injuries or for damages to Government's property in Contractor's custody, any property of the Contractor, its officers, agents, servants, and employees, or any other person, arising from, and incident to, the Contractor's performance of the work detailed herein. The Contractor shall hold harmless and indemnify the Government from any and all claims arising therefrom, except in the instance of gross negligence on the part of the Government. The Contractor shall submit evidence of general liability insurance within 10 calendar days after award.

F. Value Added Tax (VAT): VAT is not included in the CLIN rates. If VAT is applicable, the Contractor shall provide VAT as a separate line item in the contract and on all invoices.

G. Defense Base Act (DBA) Insurance:

(a) The Department of Labor has waived the DBA insurance for the countries in paragraph (b) of this subsection. United States citizens or residents and individuals hired in the United States, regardless of citizenship shall be required to obtain DBA insurance. Evidence of DBA insurance shall be submitted within 15 days of award. The DBA Insurance shall be obtained from any U.S. Department of Labor (DOL) authorized DBA insurance broker. A list of DOL-authorized insurance brokers is available at the following address: <http://www.dol.gov/owcp/dlhwc/lscarrrier.htm>. DBA insurance cost will be evaluated as part of the total evaluated firm fixed price and included in the firm fixed price of the task order. The Contractor shall be reimbursed for the cost of DBA insurance only upon providing proof of payment.

(b) The DoL has waived DBA insurance for the following countries of performance under this contract: <https://www.dol.gov/owcp/dlhwc/dbawaivers/dbawaivers.htm>:

(c) United Kingdom is listed on the DOL Active DBA Waiver list and therefore DBA insurance for Host Country Nationals (HCNs) and Third Country Nationals (TCNs), performing under this contract is not required. However, DBA Insurance for U.S. citizens and individuals hired in the United States (regardless of citizenship) performing under this contract is required.

(d) The Contractor will be reimbursed for DBA insurance only to the extent the contractor provides documentary proof that DBA insurance has been paid and only to the extent quoted in CLINs 0003, 1003, 2003, 3003 and 4003.

H. Minimum and Maximum Amounts: During life of this contract, the Government shall place orders totaling a minimum of \$5,000.00 or local currency equivalent. This reflects the contract minimum for this period of performance. The amount of all orders shall not exceed \$500,000.00 or local currency equivalent, which reflects the contract maximum.

I. James Zadroga 9/11 Victims Health and Compensation Act of 2010 Notice: Unless a waiver or exception applies, payments subsequent to this procurement are subject to an excise tax of 2% pursuant to 26 U.S.C. 5000C.

J. Acquisition Method: This commercial acquisition is utilizing Simplified Acquisition Procedures.

**II. PRICING**

<b>BASE YEAR</b>					
A	B	C	D	E	F
CLIN	Description	Unit	Estimate Quantity*	Firm-Fixed Unit Price	Amount [D x E]
0001	Pay As You Earn (PAYE) services as specified in the SOW	Month	12		
0002	20% Value Added Tax (VAT)	Lot	1		
0003	Defense Base Act (DBA) insurance, if applicable	Lot	1		
<b>Total Firm Fixed-Price (CLINs 0001-0003)</b>					

\* Estimated quantity for evaluation purposes only. Actual number may be lower or higher than the estimates in the solicitation/contract.

<b>FIRST OPTION YEAR</b>					
A	B	C	D	E	F
CLIN	Description	Unit	Estimate Quantity*	Firm-Fixed Unit Price	Amount [D x E]
1001	Pay As You Earn (PAYE) services as specified in the SOW	Month	12		
1002	20% Value Added Tax (VAT)	Lot	1		
1003	Defense Base Act (DBA) insurance, if applicable	Lot	1		
<b>Total Firm Fixed-Price (CLINs 1001-1003)</b>					

\* Estimated quantity for evaluation purposes only. Actual number may be lower or higher than the estimates in the solicitation/contract.

<b>SECOND OPTION YEAR</b>					
A	B	C	D	E	F

CLIN	Description	Unit	Estimate Quantity*	Firm-Fixed Unit Price	Amount [D x E]
2001	Pay As You Earn (PAYE) services as specified in the SOW	Month	12		
2002	20% Value Added Tax (VAT)	Lot	1		
2003	Defense Base Act (DBA) insurance, if applicable	Lot	1		
<b>Total Firm Fixed-Price (CLINs 2001-2003)</b>					

\* Estimated quantity for evaluation purposes only. Actual number may be lower or higher than the estimates in the solicitation/contract.

<b>THIRD OPTION YEAR</b>					
A	B	C	D	E	F
CLIN	Description	Unit	Estimate Quantity*	Firm-Fixed Unit Price	Amount [D x E]
3001	Pay As You Earn (PAYE) services as specified in the SOW	Month	12		
3002	20% Value Added Tax (VAT)	Lot	1		
3003	Defense Base Act (DBA) insurance, if applicable	Lot	1		
<b>Total Firm Fixed-Price (CLINs 3001-3003)</b>					

\* Estimated quantity for evaluation purposes only. Actual number may be lower or higher than the estimates in the solicitation/contract.

<b>FOURTH OPTION YEAR</b>					
A	B	C	D	E	F
CLIN	Description	Unit	Estimate Quantity*	Firm-Fixed Unit Price	Amount [D x E]
4001	Pay As You Earn (PAYE) services as specified in the SOW	Month	12		
4002	20% Value Added Tax (VAT)	Lot	1		
4003	Defense Base Act (DBA) insurance, if applicable	Lot	1		
<b>Total Firm Fixed-Price (CLINs 4001-4003)</b>					

\* Estimated quantity for evaluation purposes only. Actual number may be lower or higher than the estimates in the solicitation/contract.

State Currency: \_\_\_\_\_

Summary:

Total Base Year \_\_\_\_\_  
 Total First Option Year \_\_\_\_\_  
 Total Second Option Year \_\_\_\_\_  
 Total Third Option Year \_\_\_\_\_  
 Total Fourth Option Year \_\_\_\_\_

**Grand total (estimated contract amount):** \_\_\_\_\_

CONTINUATION TO SF-1449,  
RFP NUMBER 19GE5023R0105  
SCHEDULE OF SUPPLIES/SERVICES, BLOCK 20  
DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

**1. INTRODUCTION**

Mission UK has a requirement for Pay As You Earn (PAYE) services to operate the income tax and NIC (National insurance contribution) deduction system. Prior to 2017, the Government did not operate that system and paid its Locally Employed (LE) and Official Residence Expenses (ORE) staff without such deductions. Staff have paid these liabilities directly to Her Majesty's revenue and Customs (HMRC) themselves either under self-assessment or using a voluntary tax/NIC pay allotment.

Effective April 6, 2016 after UK Government implemented Real Time information (RTI) Pay As You Earn scheme (PAYE), American Embassy has been mandated to deduct income tax and national insurance from employees' wages and pay to HMRC.

It has been determined that our payroll office in Charleston is unable to operate PAYE due to software and security considerations. In view of this, American Embassy London is contracting out for a third-party service provider to use payroll data supplied by Charleston via Embassy's payroll office.

The Contractor will provide income tax, NIC and student loan calculation compatible with HMRC's implemented Real Time information (RTI) Pay As You Earn scheme (PAYE) requirements based on the instructions and individual tax codes received by HMRC Embassy team, a department, set up by HMRC to assist Diplomatic Missions in processing their local staff pay and taxes. The Contractor is required to set up employee's records into their payroll system (certified by HMRC) based on the personal information received from Embassy's Payroll office. HMRC Embassy team will issue individual tax codes based on employee's personal circumstances i.e. nationality, residency, current year earnings, previous year tax over/underpayments and family status. The Contractor shall input employee data and tax code into their payroll system to automatically calculate employee's taxes on a bi-weekly and monthly basis. This tax calculations will be automatically transmitted to HMRC's via RTI system. The successful should use a secure web portal to submit the excel spreadsheet to payroll office in Charleston, via Embassy's payroll office.

The Contractor shall furnish all administrative, supervision and direct labor personnel that are necessary to accomplish the work in this contract.

**2. STATEMENT OF WORK (SOW)**

It is anticipated that this service will be provided for payroll consisting of approximately 500 Locally Employed (LE) staff on a bi-weekly (fortnightly) and for a payroll consisting of approximately 15 Official Residence Expenses (ORE) staff monthly. Due to time and attendance deadlines set up by payroll office in Charleston, the employee earnings and their tax deductions will be in one pay period in arrears.

Embassy's payroll office will liaise both with payroll office in Charleston and the Contractor and transmit the payroll reports to/from these entities using U.S. State Departments secure email system and contracted payroll company's secure web portal.

On the first Wednesday of the pay period, payroll office in Charleston will provide comprehensive report of employees earning's data, from the previous pay period, to the Embassy's payroll team. The payroll team will then upload the report into the Contractor's secure web portal. The Contractor will process employee taxes based on the earnings report received from Charleston and tax codes received from HMRC. The Contractor will then transmit the tax and NI calculations to HMRC via RTI system. They will extract the spreadsheet from their system and upload into their secure web portal by close of business (COB) first Friday of the pay period.

Embassy's payroll team will download the report and send to Charleston via State Department's secure email system by COB second Monday of the pay period. The later will upload the report into their payroll system. The mandatory withholdings will be deducted from employee's pay in the next pay run.

**Statement of Requirements**

It would be expected that all income tax/NIC deductions to be accurate based on:

- Personal information supplied by employee upon start of their employment.
- Pay Statement (P45) from previous employer supplied by the employee when and where applicable.
- Pay information supplied by Charleston payroll office on a bi-weekly basis.
- Tax code and NIC table information supplied by HMRC Embassy team.

The Contractor is expected to carry out the following services:

- Assign a project manager who will be the Point of Contract (POC) with the Embassy.
- Create employee portfolio in their payroll system within two (2) weeks of receiving necessary documentation.
- Process pay and calculate mandatory deductions from employee's wages on a bi-weekly basis for Locally Employed (LE) staff and monthly basis for Official Residence Expenses (ORE) staff.
- Provide respective data for Charleston to process in the following pay period.
- Review tax deductions processed by Charleston in previous pay period (this information is available in the data provided by Charleston).
- Track and report all non-deductions due to employee's insufficient funds for various reasons: occasional worker, resignation/termination etc. bi-weekly.
- Submit RTI pay schedules to HMRC on a bi-weekly and monthly basis.
- Advise HMRC on new starters and leavers. Provide P45 forms to leavers as required.
- Process End of Year Earnings Statements (P60s) to HMRC and send copies to employees via post by the 15th of May.
- Respond to payroll queries within two (2) business days. Ensure the query is resolved and all interested parties (HMRC, Employee and Embassy's Payroll office) are aware of the outcome.\*
- Keep all the above stakeholders informed if the query requires more timing for investigation and resolution.

Additional services:

- Liaise with HMRC as often as required.
- Provide supplementary reports to HMRC to deal with anomalies as needed.
- Assist employees with their queries.\*
- Assist employees with enquiries they received from HMRC.\*
- Investigate unusual cases and clarify the resolution with employees before and after agreeing the solution with HRMC Team.
- Set one-to-one sessions with employees to resolve their issues as needed.
- Provide ad hoc advice concerning benefits and other employment-related matters.

*\* Queries from employees will be collected by Payroll Manager, who will be the COR for this contract, and will be forwarded to the Contractor daily. The estimate number of queries is 50 per month.*

### **3. SERVICE CONDITIONS AND ENVIRONMENTAL FACTORS**

This service is to be operated using the historical payroll data supplied by Charleston through the Embassy's payroll office. The Contractor is required to calculate appropriate tax/NIC deductions for each employee and return the data to Charleston within 2 working days with details of the relevant deductions for Charleston to process these deductions from each employee's pay.

A deadline of processing within two (2) working days after receiving the file would ensure the deduction information is supplied to Charleston in time for the deductions to be affected considering public holidays on both sides of the Atlantic.

The data is transferred from the Embassy's payroll office via the service providers secure portal transfer system. The data with Contractor's calculations are then transferred to Charleston via State department's secured email system.

### **4. MANAGEMENT AND SUPERVISION**

The Contractor shall designate a representative who shall be the focal point for the Contractor and shall be the point of contact with U.S. Government personnel.

#### **Minimum qualifications:**

- At least 6 years of experience in payroll processing.
- Good knowledge of HMRC guidelines and regulations regarding to PAYE, NIC Pension, Student loan calculations and other allowances in England, Scotland and Northern Ireland.



- Good knowledge of HMRC certified payroll systems i.e. Sage or similar.

**5. OTHER REQUIREMENTS**

5.1 The Contractor must be based in the United Kingdom, as the services necessitate the submission of mandatory withholdings through the certified payroll software of Her Majesty’s Revenue and Customs (HMRC).

5.2 The contractor is obligated to furnish Data Protection and Security Statements.

**QUALITY ASSURANCE AND SURVEILLANCE PLAN (QASP)**

This plan provides an effective method to promote satisfactory contractor performance. The QASP provides a method for the Contracting Officer's Representative (COR) to monitor Contractor performance, advise the Contractor of unsatisfactory performance, and notify the Contracting Officer of continued unsatisfactory performance. The Contractor, not the Government, is responsible for management and quality control to meet the terms of the contract. The role of the Government is to monitor quality to ensure that contract standards are achieved.

Performance Objective	Performance Threshold
<p><u>Services.</u> Performs all <b>PAYE Services</b> set forth in the scope of work.</p>	<p>All required services are performed and no more than three (3) customer complaint are received per month.</p>

a) **SURVEILLANCE:** The COR will receive and document all complaints from Government personnel regarding the services provided. If appropriate, the COR will send the complaints to the Contractor for corrective action.

b) **STANDARD:** The performance standard is that the Government receives no more than five (5) customer complaint per month. The COR shall notify the Contracting Officer of the complaints so that the Contracting Officer may take appropriate action to enforce the inspection clause (FAR 52.212.4, Contract Terms and Conditions-Commercial Items), if any of the services fail to meet the standard.

c) **PROCEDURES:**

- (1) If any Government personnel observe unacceptable services, either incomplete work or required services not being performed they should immediately contact the COR.
- (2) The COR will complete appropriate documentation to record the complaint.
- (3) If the COR determines the complaint is invalid, the COR will advise the complainant. The COR will retain the annotated copy of the written complaint for his/her files.
- (4) If the COR determines the complaint is valid, the COR will inform the Contractor and give the Contractor additional time to correct the defect, if additional time is available. The COR shall determine how much time is reasonable.
- (5) The COR shall, as a minimum, orally notify the Contractor of any valid complaints.
- (6) If the Contractor disagrees with the complaint after investigation of the site and challenges the validity of the complaint, the Contractor will notify the COR. The COR will review the matter to determine the validity of the complaint.
- (7) The COR will consider complaints as resolved unless notified otherwise by the complainant.
- (8) Repeat customer complaints are not permitted for any services. If a repeat customer complaint is received for the same deficiency during the service period, the COR will contact the Contracting Officer for appropriate action under the Inspection clause.

**CONTRACT ADMINISTRATION DATA**

All work shall be performed under the general direction of the Contracting Officer, who alone shall have the power to bind the Government and to exercise the rights, responsibilities, authorities and functions vested by the contract, except that the Contracting Officer and the Procurement Executive shall have the right to designate authorized representatives to act for the Contracting Officer, as specifically provided in the designation of that individual.

This contract will be administered as follows:

**Contracting Officer:**  
Nicolas A. Wilhelm  
Contracting Officer

Deputy Director, Regional Procurement Support Office (RPSO)

**Authorized Alternate Contracting Officer(s):**

Eric N. Moore  
Contracting Officer  
Director, Regional Procurement Support Office (RPSO)

**Contract Administrator:**

Patticha Gruenbeck, Contract Specialist  
American Consulate General Frankfurt  
Giessener Strasse 30  
60435 Frankfurt am Main, Germany  
Telephone Number: 49-069-7535-3345  
Email: GruenbeckP@state.gov

**Contracting Officer's Representative (COR):**

*\*To be designated on award.*

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**SECTION II - CONTRACT CLAUSES**

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**FAR 52.212-4 Contract Terms and Conditions - Commercial Products and Commercial Services (Dec 2022) is incorporated by reference (see SF-1449, Block 27A).**

**Addendum to FAR 52.212-4 Contract Terms and Conditions - Commercial Products and Commercial Services (Deviation 2017-02)**

The whistleblower protection of 41 U.S.C 4712 has been removed from paragraph (r) of FAR clause 52.212-4. The following revised paragraph applies:

(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; 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(End of Clause)

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**FAR 52.212-5 - Contract Terms and Conditions Required to Implement Statutes or Executive Orders - Commercial Products and Commercial Services (Jun 2023)**

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(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).

  \_X\_ (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).

  \_X\_ (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]

   (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 (Oct 2022) (15 U.S.C. 637(d)(2) and (3)).

   (18) (i) 52.219-9, Small Business Subcontracting Plan (Oct 2022) (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 2021) 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 (Mar 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).
- \_X\_ (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.
- \_\_ (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.
- \_X\_ (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 (Nov 2007) (42 U.S.C. 5150).
- \_X\_ (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).
- \_X\_ (59) 52.232-33, Payment by Electronic Funds Transfer-System for Award Management (Oct 2018) (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 (Oct 2022) (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)

Alternate I (Feb 2000). As prescribed in 12.301 (b)(4)(i), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to "paragraphs (a), (b), (c), or (d) of this clause" in the redesignated paragraph (d) to read "paragraphs (a), (b), and (c) of this clause".

Alternate II (Jun 2023). As prescribed in 12.301 (b)(4)(ii), substitute the following paragraphs (d)(1) and (e)(1) for paragraphs (d)(1) and (e)(1) of the basic clause as follows:

(d)(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8 G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials shall have access to and right to—

- (i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and
  - (ii) Interview any officer or employee regarding such transactions.
- (e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial products or commercial services, other than—
- (i) Paragraph (d) of this clause. This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and
  - (ii) Those clauses listed in this paragraph (e)(1). Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—
- (A) 52.203-13, Contractor Code of Business Ethics and Conduct (Nov 2021) (41 U.S.C. 3509).
  - (B) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5).
  - (C) 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).
  - (D) 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).
  - (E) 52.204-27, Prohibition on a ByteDance Covered Application (Jun 2023) (Section 102 of Division R of Pub. L. 117-328).
  - (F) 52.219-8, Utilization of Small Business Concerns (Oct 2022) (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.
  - (G) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).
  - (H) 52.222-26, Equal Opportunity (Sep 2016) (E.O. 11246).
  - (I) 52.222-35, Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212).
  - (J) 52.222-36, Equal Opportunity for Workers with Disabilities (Jun 2020) (29 U.S.C. 793).
  - (K) 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.
  - (L) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter 67).
  - (M) \_\_ (1) 52.222-50, Combating Trafficking in Persons (Nov 2021) (22 U.S.C. chapter 78 and E.O 13627).
  - \_\_ (2) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
  - (N) 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).
  - (O) 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).
  - (P) 52.222-54, Employment Eligibility Verification (May 2022) (Executive Order 12989).
  - (Q) 52.222-55, Minimum Wages for Contractor Workers Under Executive Order 14026 (Jan 2022).
  - (R) 52.222-62, Paid Sick Leave Under Executive Order 13706 (Jan 2022) (E.O. 13706).

(S)\_\_\_ (1) 52.224-3, Privacy Training (Jan 2017) (5 U.S.C. 552a).

\_\_\_ (2) Alternate I (Jan 2017) of 52.224-3.

(T) 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).

(U) 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.

(V) 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.

(W) 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.

**Addendum to FAR 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders- Commercial Products and Commercial Services (Deviation 2018-O0021) (Sep 2018)**

(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 items:

[Contracting Officer check as appropriate.]

\_\_\_ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

\_\_\_ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509)).

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

\_X\_(4) 52.203-17, Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights (April 2014) (41 U.S.C. 4712) relating to whistleblower protections).

(End of addendum)

*The following clause at 52.212-5(a)(3) is provided in full text:*

**Addendum to FAR 52.212-5 - Contract Terms and Conditions Required to Implement Statutes or Executive Orders- Commercial Products and Commercial Services (Deviation 2018-O0021) (Sep 2018)**

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(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 items:

[Contracting Officer check as appropriate.]

(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

(2) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509)).

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

\_X\_(4) 52.203-17, Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights (April 2014) (41 U.S.C. 4712) relating to whistleblower protections).



(End of addendum)

*The following clause at 52.212-5(a)(3) is provided in full text:*

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

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(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 products or commercial services.

(End of clause)

**FAR 52.233-3 - Protest After Award (Aug 1996)**

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(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either-

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(End of clause)

Alternate I (June 1985). As prescribed in 33.106(b), substitute in paragraph (a)(2) the words "the Termination clause of this contract" for the words "the Default, or the Termination for Convenience of the Government clause of this contract." In paragraph (b) substitute the words "an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected" for the words "an equitable adjustment in the delivery schedule or contract price, or both."

*The following FAR clause is provided in full text:*

**FAR 52.204-21 - Basic Safeguarding of Covered Contractor Information Systems (Nov 2021)**

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(a) Definitions. As used in this clause—

Covered contractor information system means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

Federal contract information means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public websites) or simple transactional information, such as necessary to process payments.

Information means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information ( 44 U.S.C. 3502).

Safeguarding means measures or controls that are prescribed to protect information systems.

(b) Safeguarding requirements and procedures.

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.

(viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.

(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.

(x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

(xii) Identify, report, and correct information and information system flaws in a timely manner.

(xiii) Provide protection from malicious code at appropriate locations within organizational information systems.

(xiv) Update malicious code protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) Other requirements. This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial products or commercial services, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

(End of clause)

ADDENDUM TO CONTRACT CLAUSES  
FAR AND DOSAR CLAUSES NOT PRESCRIBED IN PART 12

**FAR - 52.252-2 - Clauses Incorporated by Reference (Feb 1998)**

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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: <https://www.acquisition.gov/browse/index/far>

These addresses are subject to change. If the Federal Acquisition Regulation (FAR) and Department of State Acquisition Regulation (DOSAR) are not available at the locations indicated above, you may also use an Internet "search engine" (for example, Google, Yahoo or Excite) to obtain the latest location of the most current FAR.

*The following FAR and DOSAR clauses are incorporated by reference:*

<u>CLAUSE</u>	<u>TITLE AND DATE</u>
52.204-12	Unique Entity Identifier Maintenance (Oct 2016)
52.204-13	System for Award Management Maintenance (Oct 2018)
52.204-18	Commercial and Government Entity Code Maintenance (Aug 2020)
52.216-22	Indefinite Quantity (Oct 1995)
52.225-14	Inconsistency between English Version and Translation of Contract (Feb 2000)
52.228-3	Workers' Compensation Insurance (Defense Base Act) (Jul 2014)
52.228-4	Workers' Compensation and War-Hazard Insurance Overseas (Apr 1984)
52.228-5	Insurance-Work on a Government Installation (Jan 1997)
52.229-6	Taxes-Foreign Fixed-Price Contracts (Feb 2013)
52.237-3	Continuity of Services (Jan 1991)
652.225-71	Section 8(a) of the Export Administration Act of 1979, as Amended (Aug 1999)
652.229-71	Personal Property Deposition at Posts Abroad (Aug 1999)
652.243-70	Notices (Aug 1999)

*The following FAR and DOSAR clauses are provided in full text:*

**FAR 52.216-18 - Ordering (Aug 2020)**

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- (a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from date of award through base period or option periods if exercised.
- (b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.
- (c) A delivery order or task order is considered "issued" when—

- (1) If sent by mail (includes transmittal by U.S. mail or private delivery service), the Government deposits the order in the mail;
- (2) If sent by fax, the Government transmits the order to the Contractor's fax number; or
- (3) If sent electronically, the Government either—

(i) Posts a copy of the delivery order or task order to a Government document access system, and notice is sent to the Contractor; or

(ii) Distributes the delivery order or task order via email to the Contractor's email address.

(d) Orders may be issued by methods other than those enumerated in this clause only if authorized in the contract.

(End of clause)

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**FAR 52.216-19 - Order Limitations (Oct 1995)**

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(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than USD 5,000.00, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum order. The Contractor is not obligated to honor--

1. Any order for a single item in excess of USD 200,000.00.
2. Any order for a combination of items in excess of USD 500,000.00; or
3. A series of orders from the same ordering office within 365 days that together call for quantities exceeding the limitation in subparagraph (1) or (2) above.

(c) If this is a requirements contract (i.e., includes the Requirement clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) above.

(d) Notwithstanding paragraphs (b) and (c) above, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within five (5) days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

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**FAR 52.217-8 - Option to Extend Services (Nov 1999)**

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The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within the performance period of the contract.

(End of clause)

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**FAR 52.217-9 - Option to Extend the Term of the Contract (Mar 2000)**

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- (a) The Government may extend the term of this contract by written notice to the Contractor within the performance period of the contract or within 30 days after funds for the option year become available, whichever is later.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- (c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed five (5) years.

(End of clause)

#### **FAR 52.227-17 - Rights in Data-Special Works (Dec 2007)**

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(a) Definitions. As used in this clause-

Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

Unlimited rights means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) Allocation of Rights. (1) The Government shall have-

(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) of this clause.

(ii) The right to limit assertion of copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in that data, in accordance with paragraph (c)(1) of this clause.

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) of this clause.

(2) The Contractor shall have, to the extent permission is granted in accordance with paragraph (c)(1) of this clause, the right to assert claim to copyright subsisting in data first produced in the performance of this contract.

(c) Copyright- (1) Data first produced in the performance of this contract. (i) The Contractor shall not assert or authorize others to assert any claim to copyright subsisting in any data first produced in the performance of this contract without prior written permission of the Contracting Officer. When copyright is asserted, the Contractor shall affix the appropriate copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to the data when delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all delivered data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.

(ii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in paragraph (c)(1)(i) of this clause, the Contracting Officer shall direct the Contractor to assign (with or without registration), or obtain the assignment of, the copyright to the Government or its designated assignee.

(2) Data not first produced in the performance of this contract. The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and that contain the copyright notice of 17 U.S.C. 401 or 402, unless the Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause.

(d) Release and use restrictions. Except as otherwise specifically provided for in this contract, the Contractor shall not use, release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contracting Officer.

(e) Indemnity. The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or

regulations to participate in the defense of the claim or suit, and obtains the Contractor's consent to the settlement of any claim or suit other than as required by final decree of a court of competent jurisdiction; and these provisions do not apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

**FAR 52.232-19 - Availability of Funds for the Next Fiscal Year (Apr 1984)**

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Funds are not presently available for performance under this contract beyond September 30 of the current calendar year. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond September 30 of the current calendar year, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

(End of clause)

**DOSAR 652.232-70 - Payment Schedule and Invoice Submission (Fixed-Price) (Aug 1999)**

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a) General. The Government shall pay the contractor as full compensation for all work required, performed and accepted under this contract, inclusive of all costs and expenses, the firm fixed-price stated in Section B of this contract.

[Use paragraph (b) only if partial payments apply. Otherwise, paragraph (a) above assumes the contractor will be paid the full amount upon completion of all contractual requirements].

(b) Payment Schedule. Payments will be made in accordance with the following partial payment schedule:

Partial Payment Number	Specific Deliverable	Delivery date	Payment amount
1			
2			
3			

(c) Invoice Submission. Invoices shall be submitted in pdf format to the office identified in Block 18b of the SF-1449. To constitute a proper invoice, the invoice must include all items per FAR 52.232-25, "Prompt Payment.

(d) Contractor Remittance Address. Payment shall be made to the contractor's address as specified on the cover page of this contract, unless a separate remittance address is specified below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(End of clause)

**DOSAR 652.237-72 - Observance of Legal Holidays and Administrative Leave (Feb 2015)**

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(a) The Department of State observes the following days as holidays:

- New Year's Day
- Martin Luther King's Birthday
- Washington's Birthday
- Memorial Day
- Independence Day
- Labor Day



Columbus Day  
Veterans Day  
Thanksgiving Day  
Christmas Day

Any other day designated by Federal law, Executive Order, or Presidential Proclamation.

(b) When New Year's Day, Independence Day, Veterans Day or Christmas Day falls on a Sunday, the following Monday is observed; when it falls on Saturday, the preceding Friday is observed. Observance of such days by Government personnel shall not be cause for additional period of performance or entitlement to compensation except as set forth in the contract. If the contractor's personnel work on a holiday, no form of holiday or other premium compensation will be reimbursed either as a direct or indirect cost, unless authorized pursuant to an overtime clause elsewhere in this contract.

(c) When the Department of State grants administrative leave to its Government employees, assigned contractor personnel in Government facilities shall also be dismissed. However, the contractor agrees to continue to provide sufficient personnel to perform round-the-clock requirements of critical tasks already in operation or scheduled, and shall be guided by the instructions issued by the contracting officer or his/her duly authorized representative.

(d) For fixed-price contracts, if services are not required or provided because the building is closed due to inclement weather, unanticipated holidays declared by the President, failure of Congress to appropriate funds, or similar reasons, deductions will be computed as follows:

(1) The deduction rate in dollars per day will be equal to the per month contract price divided by 21 days per month.

(2) The deduction rate in dollars per day will be multiplied by the number of days services are not required or provided. If services are provided for portions of days, appropriate adjustment will be made by the contracting officer to ensure that the contractor is compensated for services provided.

(e) If administrative leave is granted to contractor personnel as a result of conditions stipulated in any "Excusable Delays" clause of this contract, it will be without loss to the contractor. The cost of salaries and wages to the contractor for the period of any such excused absence shall be a reimbursable item of direct cost hereunder for employees whose regular time is normally charged, and a reimbursable item of indirect cost for employees whose time is normally charged indirectly in accordance with the contractor's accounting policy.

List of American and local holidays may be obtained from the COR after contract award.

(End of clause)

#### **DOSAR 652.242-70 - Contracting Officer's Representative (COR) (Aug 1999)**

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(a) The Contracting Officer may designate in writing one or more Government employees, by name or position title, to take action for the Contracting Officer under this contract. Each designee shall be identified as a Contracting Officer's Representative (COR). Such designation(s) shall specify the scope and limitations of the authority so delegated; provided, that the designee shall not change the terms or conditions of the contract, unless the COR is a warranted Contracting Officer and this authority is delegated in the designation.

(b) The COR for this contract **will be designated upon award.**

(End of clause)

#### **DOSAR 652.242-73 - Authorization and Performance (Aug 1999)**

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(a) The contractor warrants the following:

(1) That it has obtained authorization to operate and do business in the country or countries in which this contract will be performed;

(2) That it has obtained all necessary licenses and permits required to perform this contract; and,

(3) That it shall comply fully with all laws, decrees, labor standards, and regulations of said country or countries during the performance of this contract.

(b) If the party actually performing the work will be a subcontractor or joint venture partner, then such subcontractor or joint venture partner agrees to the requirements of paragraph (a) of this clause.

(End of clause)

### **Cybersecurity - Supply Chain Risk Management Requirements (Feb 2023)**

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

Covered article - The term "covered article" includes-

(1) "Information and Communications technology" which means-

(i) any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use of that equipment, or of that equipment to a significant extent in the performance of a service or the furnishing of a product.

(ii) computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; however, does not include any equipment acquired by a federal contractor incidental to a federal contract.

(2) "Telecommunications Equipment", which means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

(3) "Telecommunications Service", which means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(4) "Cybersecurity Supply Chain Risk", which means the risk that a person may sabotage, maliciously introduce unwanted function, extract data, or otherwise manipulate the design, integrity, manufacturing, production, distribution, installation, operation, maintenance, disposition, or retirement of covered articles to surveil, deny, disrupt, or otherwise manipulate the function, use, or operation of the covered articles or information stored or transmitted on the covered articles.

(b) *Contractor Cybersecurity Supply Chain Risk Management Responsibilities.* The Contractor shall take all prudent actions and comply with all Government direction (as identified in paragraph (c)) to regularly identify, assess, monitor, and mitigate cybersecurity supply chain risks when providing covered articles or services affecting covered articles to the Government. The Contractor shall maintain artifacts that document its compliance with this paragraph and shall provide these artifacts to the Government within 48 hours of request.

(c) *Supporting Government Cybersecurity Supply Chain Risk Assessments.* The Government may perform a cybersecurity supply chain risk assessment at any time during contract administration to identify, assess, and monitor the cyber risks of the Contractor's supply chain. The Contractor agrees that the Government may, at its own discretion, perform on-site assessments to collect information for the cybersecurity supply chain risk assessment. In performing the cybersecurity supply chain risk assessment, the Government may review any information provided by the Contractor, along with any other information available to the Government from public, unclassified, classified, or any other sources. Examples of information that the Government may collect for the cybersecurity supply chain risk assessment includes the following:

1. Functionality and features of covered articles, including access to data and information system privileges.
2. The user environment where a covered article is used or installed.

3. The ability of a source to produce and deliver covered articles as expected.
4. Foreign control of, or influence over, a source or covered article (e.g., foreign ownership, personal and professional ties between a source and any foreign entity or legal regime of any foreign country in which a source is headquartered or conducts operations).
5. Implications to Government mission(s) or assets, national security, homeland security, or critical functions associated with use of a source or covered article.
6. Vulnerability of Federal systems, programs, or facilities.
7. Market alternatives to the covered source.
8. Potential impact or harm caused by the possible loss, damage, or compromise of a product, material, or service to an organization's operations or mission.
9. Likelihood of a potential impact or harm, or the exploitability of a system.
10. Security standards of the supplier as demonstrated by cooperation with assessments.
11. Security, authenticity, and integrity of covered articles and their supply and compilation chain.
12. Capacity to mitigate risks identified.
13. Factors that could lead to inability of the supplier to provide security updates.
14. Factors that may reflect upon the reliability of other supply chain risk information.
15. Any other considerations that would factor into an analysis of the security, integrity, resilience, quality, trustworthiness, or authenticity of covered articles or sources.

*(d) Non-Destructive and Destructive Testing.* The Government may engage in non-destructive and/or destructive testing of any information system, equipment, and software to determine whether it will negatively affect the security or performance of a Department of State information system.

*(e) Novation Agreement Notice.* FAR 42.1203 require Government approval of novation agreements. For proposed novation agreements for this contract, the Contractor shall provide any information requested by the Government regarding the proposed successor's identity and information regarding its supply chain.

*(f) Software Bill of Materials (SBOM) Requests.* For software, within 10 business days of request by a Department of State representative, the Contractor shall submit a SBOM to a designated representative. This request may be requested on one (1) or more occasions and shall be delivered at no increase in contract price.

*(g) SBOM Sharing Notice.* The Contractor consents to the sharing of its SBOM data with other contractors, such as tool solution providers, for the sole purpose of mapping against known vulnerabilities.

*(h) Notification procedures for cybersecurity supply chain events.* When cybersecurity supply chain events occur, the Contractor must contact the Contracting Officer or his/her designee within 12 hours of the event.

*(i) Subcontracts.* The Contractor shall insert the substance of this clause in all subcontracts and other contractual instruments in support of this contract.

*(j) Vulnerability Exploitability eXchange (VEX).* The Contractor is required to notify the Department of any discovered software vulnerabilities within 12 hours. Within three (3) days, they shall provide a report using a VEX format.

*(k) Attestation following Major Version Change.* Critical Software, as defined by National Institute for Science and Technology (NIST) Guidance, that is provided by the Contractor or subcontractors and is modified during the contract's period of performance by a major version change (e.g., using a semantic versioning schema of Major.Minor.Patch, the software version number goes from 2.5 to 3.0) requires a new self attestation. For indefinite delivery contract vehicles, this self attestation must be provided for all critical software available for ordering on the contract vehicle when the software is modified during the contract vehicle's ordering period of performance by a major version change. The Contractor shall either (i) post the new attestation in a publicly available internet location within 15 days of the major version change and provide the COR, or Contracting Officer if a COR is not appointed, with the internet link or (ii) shall contact the COR, or Contracting Officer if a COR is not appointed, and request the agency's current software self attestation form and submit it to the Government within 15 days of the major version change. The self attestation form will contain the following elements: (i) the software producer's name; (ii) a description of which product or products the statement

refers to including the number of the major version change; and (iii) a statement attesting that the software producer follows secure development practices and tasks consistent with NIST Guidance.

(End of clause)

### **TCNs - Recruitment of Third Country Nationals (TCNs) for Performance on Department of State Contracts (May 2023)**

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1. Where contracts exceeding the Simplified Acquisition Threshold will require the recruitment of Third Country Nationals (TCNs), the offeror is required to submit a **Recruitment Plan** as part of its proposal. Offerors providing employer furnished housing are required to submit a **Housing Plan**. All plans are assessed on a pass/fail basis.
2. Recruitment Plans must:
  - a. State the anticipated number of workers to be recruited, the skills they are expected to have, and the country or countries from which the contractor intends to recruit them.
  - b. Explain how the contractor intends to attract candidates and the recruitment strategy including the recruiter.
  - c. State in the offer that the recruited employee will not be charged recruitment fees as defined in FAR 22.1702 and FAR 52.22-50. The contractor or employer pays the recruitment fees for the worker if recruited by the contractor or subcontractor to work specifically on Department of State contracts.
  - d. Recruitment fees included by the prime contractor in the contract price must be allowable by country law, allocable to the contract based on benefit to the program, and reasonable based on what a prudent businessperson would pay for similar expenses and charges. The reasonableness of recruitment fees should be assessed based on the reasonableness of the individual components.
  - e. State in the offer that the contractor's recruitment practices comply with recruiting nation and host country labor laws.
  - f. State in the offer that the contractor has read and understands the requirements of FAR 52.222-50 Combating Trafficking in Persons.
  - g. Contractor will advise the Contracting Officer of any changes to the Recruitment Plan during performance.
3. The offeror will submit a Housing Plan if it intends to provide employer furnished housing for TCNs. The Housing Plan must describe the location and description of the proposed housing. Contractors must state in their offer that housing meets host country housing and safety standards and local codes. Contractor shall comply with any Temporary Labor Camp standards contained in their contract. In contracts without a Temporary Labor Camp standard, a minimum of 70 square feet per employee must be allocated if an employee is housed individually; if housed together, a minimum of 50 square feet per employee must be allocated unless waived by the Contracting Officer. Contractor shall submit proposed changes to their Housing Plan to the Contracting Officer for approval.
4. Department of State contractor and subcontractors will prevent human trafficking and treat employees with respect and dignity by taking the following actions:
  - a. Contractor may not destroy, conceal, confiscate, or otherwise deny access to an employee's identity documents, passports, or immigration documents. Contractors and subcontractors are reminded of the prohibition contained in Title 18, United States Code, Section 1592, against knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document to prevent or restrict the person's liberty to move or travel in order to maintain the services of that person, when the person is or has been a victim of a severe form of trafficking in persons. Contractor must be familiar with any local labor law restrictions on withholding employee identification documentation.
  - b. Contractor shall provide employees with signed copies of the/their employment contracts that are in a language the worker understands and define the terms of employment, compensation including salary, overtime rates, allowances, salary increases, job description, description of any employer provided housing, benefits including leave accrual, and information on whether hazardous working conditions are anticipated. Contracts must be provided prior to employee departure from their countries of origin. Fraudulent recruiting practices, including deliberately misleading information, will be considered a material breach of this contract.

- c. Contractor shall provide all employees with the Department’s “Know Your Rights” poster and document that employees have been briefed on the contents of the poster. The English language version is available at posters and accompanying directions or from the Contracting Officer.
  - d. Contractor shall display posters in worker housing advising employees in English and the dominant language of the TCNs being housed of the requirement to report violations of Trafficking in Persons to the company and the company’s obligation to report to the Contracting Officer. The poster shall also indicate that reports can also be submitted to the Office of the Inspector General (OIG) Hotline, StateOIG.gov/Hotline at 202-647-3320 or 1-800-409-9926 or via email at WPEAombuds@stateoig.gov.
  - e. Contractor shall brief employees on the requirements of the FAR 52.222-50 Combating Trafficking in Persons including the requirements against procuring commercial sex even in countries where it is legal and shall provide a copy of the briefing to the Contracting Officer’s Representative.
  - f. Contractor and subcontractors shall comply with sending and receiving nation laws regarding transit, entry, exit, visas, and work permits. Contractors are responsible for repatriation of workers who have traveled from other countries for contract performance except an employee legally permitted to remain in the country of work and who chooses to do so; including an employee who is a victim of trafficking seeking victim services and/or legal redress in the country of employment and/or is a witness in a trafficking-related enforcement action.
  - g. Contractor shall monitor subcontractor compliance at all tiers. This includes verification that subcontractors are aware of, and understand, the requirements of FAR 52.222-50 Combating Trafficking in Persons and this clause. Contractors specifically agree to allow U.S. Government personnel access to contractor and subcontractor personnel, records, and housing for audit of compliance with the requirements of this clause.
  - h. The contractor agrees to include FAR Clause 52.222-50 Combating Trafficking in Persons in all subcontracts over the simplified acquisition threshold involving recruitment of third country nationals for subcontractor performance.
5. For contracts or subcontracts with performance overseas valued at \$550,000 or more, other than those commercially available off-the-shelf items, offerors will certify with the submission of their proposal and annually thereafter that the contractor and subcontractors have a compliance plan in place appropriate to the size and nature of the program to prevent human trafficking and to comply with the provisions of this clause. The certification will confirm that, to the best of its knowledge and belief of the signatory, neither the prime nor its agents nor subcontractor have engaged in any trafficking related activities, including the procurement of a commercial sex act during the period of the contract, the use of forced labor in the performance of the contract, acts that support or facilitate trafficking in persons such as destroying or confiscating employees’ documents or failing to provide return transportation, soliciting employees by use of fraud or charging recruitment fees or providing sub-standard housing described in section 106(g) of the Trafficking Victims Protection Act (TVPA) or the prohibitions of this clause. The certification will also confirm that if any violations have been found, the contractor has taken the appropriate remedial and referral actions.

Contractors and subcontractors can find a model FAR compliance plan, a sample code of conduct, a supplier/subcontractor self-assessment questionnaire, and criteria to select and monitor labor recruiters among other tools on the Responsible Sourcing Tool website. The Responsible Sourcing Tool is designed to assist Federal contractors, procurement officials, and other stakeholders in identifying human trafficking or trafficking-related activities in their supply chains and developing effective management systems to prevent and address these issues. Beyond the due diligence tools, the site enables federal contractors, acquisition officials, and other entities to visualize human trafficking risks by location, industry sector, and commodity.

(End of clause)

### SECTION III - SOLICITATION PROVISIONS

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**FAR 52.212-1 Instructions to Offerors - Commercial Items (Nov 2021)**, is incorporated by reference (see SF-1449, Block 27A)

**Addendum to 52.212-1 Instructions to Offerors – Commercial Items (Nov 2021)**

*Summary of Instructions:* Each offer must consist of the following:

**Volume 1:**

1. Completed SF-1449 cover page (blocks 12, 17, 19-24, and 30 as appropriate), and Section I, Pricing, has been filled out.

2. Completed Representations and Certifications.
3. Provide the evidence of SAM registration as required in FAR 52.204-13. The SAM status must be “active”.
4. Completed form W-14 (Attachment 1) if the offeror has represented that it is not a U.S. person and is eligible for exemption from the 2% excise tax.
5. Completed C-SCRM GO/NO GO Cybersecurity Evaluation (Attachment 3).

**Volume 2:**

1. Resume of Supervisor being proposed for this contract.
2. Evidence of education background and working experience as set forth in the SOW.
3. Data Protection and Security Statements.
4. Evidence of adequate equipment and necessary resources for performance of services as per SOW.
5. Company profile.
6. Contractor past performance information experience list of clients over the past two (2) years, demonstrating prior experience with relevant past performance information and references (provide dates of contracts, places of performance, value of contracts, contact names, telephone and fax numbers and email addresses). Offerors are advised that the past performance information requested above may be discussed with the client’s contact person. In addition, the client’s contact person may be asked to comment on the offeror’s:
  - Quality of services provided under the contract;
  - Compliance with contract terms and conditions;
  - Effectiveness of management;
  - Willingness to cooperate with and assist the customer in routine matters, and when confronted by unexpected difficulties; and
  - Business integrity/business conduct.

The Government will use past performance information primarily to assess an offeror’s capability to meet the solicitation performance requirements, including the relevance and successful performance of the offeror’s work experience. The Government may also use this data to evaluate the credibility of the offeror’s proposal. In addition, the Contracting Officer may use past performance information in making a determination of responsibility.

**DEADLINE FOR SUBMISSION OF QUESTIONS**

All questions shall be submitted as soon as possible but **not later than Friday, August 25, 2023, by 1500 hours Central European Summer Time (CEST)**. Questions shall be submitted via email to Patticha Gruenbeck at GruenbeckP@state.gov with a copy to FrankfurtRPSO@state.gov.

**SUBMISSION OF PROPOSALS AND PROPOSALS DUE DATE**

Proposal shall be submitted as soon as possible but not later than **Friday, September 8, 2023, by 1500 hours Central European Summer Time (CEST)**. Proposals shall be submitted as a pdf document via email to Patticha Gruenbeck at GruenbeckP@state.gov with a copy to FrankfurtRPSO@state.gov. The email size shall not exceed 45MB. The subject should read “Proposal 19GE5023R0105”.

Late submission may not be considered.

ADDENDUM TO SOLICITATION PROVISIONS  
FAR AND DOSAR PROVISIONS NOT PRESCRIBED IN PART 12

**FAR. - 52.252-1 - Solicitation Provisions Incorporated by Reference (Feb 1998)**

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This solicitation incorporates one or more solicitation provisions 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: <https://www.acquisition.gov/browse/index/far>

These addresses are subject to change. If the FAR and DOSAR are not available at the locations indicated above, use of an internet "search engine" (for example, Google, Yahoo, Excite) is suggested to obtain the latest location of the most current FAR provisions.

*The following FAR and DOSAR solicitation provisions are incorporated by reference:*

PROVISION TITLE AND DATE

52.204-6	Unique Entity Identifier (Oct 2016)
52.204-7	System for Award Management (Oct 2018)
52.204-16	Commercial and Government Entity Code Reporting (Jul 2016)
52.214-34	Submission of Offers in the English Language (Apr 1991)

*The following FAR and DOSAR provision are provided in full text:*

**FAR 52.233-2 - Service of Protest (Sep 2006)**

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(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from Regional Procurement Support Office (RPSO), Giessener Strasse 30, 60435 Frankfurt am Main, Germany.

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

**DOSAR 652.206-70 - Advocate for Competition/Ombudsman (Feb 2015)**

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(a) The Department of State's Advocate for Competition is responsible for assisting industry in removing restrictive requirements from Department of State solicitations and removing barriers to full and open competition and use of commercial items. If such a solicitation is considered competitively restrictive or does not appear properly conducive to competition and commercial practices, potential offerors are encouraged first to contact the contracting officer for the solicitation. If concerns remain unresolved, contact:

(1) For solicitations issued by the Office of Acquisition Management (A/LM/AQM) or a Regional Procurement Support Office, the A/LM/AQM Advocate for Competition, at AQMCompetitionAdvocate@state.gov.

(2) For all others, the Department of State Advocate for Competition at cat@state.gov.

(b) The Department of State's Acquisition Ombudsman has been appointed to hear concerns from potential offerors and contractors during the preaward and postaward phases of this acquisition. The role of the ombudsman is not to diminish the authority of the contracting officer, the Technical Evaluation Panel or Source Evaluation Board, or the selection official. The purpose of the ombudsman is to facilitate the communication of concerns, issues, disagreements, and recommendations of interested parties to the appropriate Government personnel, and work to resolve them. When requested and appropriate, the ombudsman will maintain strict confidentiality as to the source of the concern. The ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of formal contract disputes. Interested parties are invited to contact the contracting activity ombudsman, Sharon D. James, at (571) 451 4912. For an American Embassy or overseas post, refer to the numbers below for the Department Acquisition Ombudsman. Concerns, issues, disagreements, and recommendations which cannot be resolved at a contracting activity level may be referred to the Department of State Acquisition Ombudsman at (703) 516-1680, by fax at (703) 875-6155, or write to: Department of State, Acquisition Ombudsman, Office of the Procurement Executive (A/OPE), Suite 603, SA-6, Washington, DC 20522-0602.

(End of provision)

SECTION IV - EVALUATION FACTORS

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**FAR 52.212-2 - Evaluation—Commercial Products and Commercial Services (Nov 2021)**

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(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:

1. Price
2. Technical Capability/Acceptability
3. C-SCRM GO/NO GO Cybersecurity Evaluation for cybersecurity:

(b) *Options*. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of provision)

**Addendum to FAR 52.212-2 - Evaluation - Commercial Products and Commercial Services (Nov 2021)**

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The evaluation process shall include review of the following:

- Compliance Review
- Technical Capability
- Price
- Responsibility

**Compliance Review:** The Government will perform an initial review of proposals received to determine compliance with the terms of the solicitation. The Government may reject as unacceptable proposals that do not conform to the solicitation. Submit the following:

- a. A completed offer, in which the SF-1449 cover page (blocks 12, 17, 19-24, and 30 as appropriate, plus SF30, amendment, if any).
- b. Completed Section I, Pricing,
- c. Completed Section V, Representation and Certifications
- d. Completed C-SCRM Go/No-Go Evaluation Questionnaire

**Technical Capability:**

- a. Ability to provide necessary personnel and financial resources needed to perform the work
- b. Offeror's plan to obtain necessary license and permits as required by local law
- c. Strategic plan for the services as required in Section III
- d. Resumes of proposed personnel as required in Section III



e. Past Performance

**Price:**

A Lowest Price Technically Acceptable (LPTA) Source Selection Process in accordance with FAR part 12 will be utilized for the purpose of the Government’s evaluation of proposals and resultant award determination. Under the LPTA evaluation process, Technical Capability will be evaluated and rated on an acceptable or unacceptable basis whereby unacceptability of any respective sub-factor will result in an unacceptable technical capability-rating. In addition, ratings for past performance will be assigned utilizing an evaluation basis of acceptable or unacceptable.

**EVALUATION FACTORS FOR AWARD:**

a) **Technical Capability:** The government will evaluate technical proposals and the below listed subfactors on an acceptable or unacceptable basis. An unacceptable rating for any of the below sub-factors will result in an unacceptable rating for the Technical Capability primary factor. Accordingly, under the LPTA evaluation approach, offerors who receive an unacceptable rating for this factor may not be considered for award. Note that the Government intends to award a contract without discussions with respective offerors. The Government reserves the right to conduct discussions if deemed in its best interest. If the Government elects to award without discussions, an initial technical rating of unacceptable will render the entire proposal unacceptable. Technical Acceptability shall be evaluated against the following sub-factors where all sub-factors are considered equal:

**Subfactor 1:** Ability to provide necessary personnel and financial resources needed to perform the work.

**Measure of Merit:** This requirement is met when the offeror has thoroughly and successfully demonstrated the ability to meet this requirement.

**Subfactor 2:** Offeror’s plan to obtain necessary licenses and permits as required by local law.

**Measure of Merit:** This requirement is met when the offeror has thoroughly and successfully demonstrated the ability to meet all licensing and permit requirements as required to perform the work in the United Kingdom.

**Subfactor 3:** Strategic Plan for Services

**Measure of Merit:** This requirement is met when the offeror has thoroughly and successfully demonstrated that its work plan takes into account the work elements in the Performance Work Statement, Quality Assurance Plan for services, and plan to obtain required insurance and name of proposed insurer(s).

**Subfactor 4:** Resumes (Qualifications of Proposed Personnel)

**Measure of Merit:** This requirement is met when the offeror has thoroughly and successfully demonstrated that education and experience of proposed personnel satisfy the performance requirements stated in this SOW.

<b>Technical Acceptable/Unacceptable Ratings</b>	
<b>Rating</b>	<b>Description</b>
Acceptable	Proposal clearly meets the minimum requirements of the solicitation.
Unacceptable	Proposal does not clearly meet the minimum requirements of the solicitation.

**Subfactor 5:** Past Performance

Past performance information that is independently obtained, by the U.S. Government, from other Government and commercial sources may also be used during past performance evaluation. Based upon information gained from other Government and commercial sources, past performance evaluation will assess the recency and relevancy of collected information in accordance with 52.212-1. If found recent and relevant, the Government will evaluate whether the offeror had successfully demonstrated an ability to perform. The evaluation of past performance information will take into account past performance information regarding predecessor companies, key personnel who have relevant experience, or subcontractors that will perform major or critical aspects of the requirement when such information is relevant to the acquisition. In addition, the Contracting Officer may use past performance information in making a determination of responsibility.

Note that the past performance evaluation performed in support of this requirement does not establish, create, or change the existing record and history of the offeror’s past performance on past contracts; rather, the past performance evaluation process gathers information from customers on how well the offeror performed those past contracts.

**Measure of Merit:** This requirement is met when the offeror’s proposal includes the required list of clients for whom services have been or are being performed that meet the recency and relevancy requirements and demonstrate the offeror’s capability to successfully perform the requirements of the SOW.

Technical Acceptable/Unacceptable Ratings	
Rating	Description
Acceptable	Based on offeror’s performance record, the Government has reasonable expectation that the offeror will successfully perform the required services, or the offeror’s record is unknown (see below).
Unacceptable	Based on the offeror’s performance records, the Government has no reasonable expectation that the offeror will be able to successfully perform the required services.

The evaluation of past performance information will result in an overall assessment of acceptable or unacceptable. Note: In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available or so sparse that no meaningful past performance rating can be reasonably assigned, the offeror may not be evaluated favorably or unfavorably on past performance. Therefore, the offeror shall be determined to have unknown past performance. In the context of acceptable/unacceptable, “unknown” shall be considered acceptable.

As a result of the Government’s evaluation of the aforementioned technical sub-factors and all associated elements, a determination of acceptable or unacceptable will be assigned for this factor of Technical Acceptability.

b) **Price Evaluation:** The lowest price will be determined by multiplying the offered prices times the estimated quantities in “Prices - Continuation of SF-1449,” and arriving at a grand total, including all options. The Government reserves the right to reject proposals that are unreasonably low or high in price.

c) **Responsibility Determination:** The Government will determine contractor responsibility by analyzing whether the apparent successful offeror complies with the requirements of FAR 9.1, including:

- a. adequate financial resources or the ability to obtain them;
- b. ability to comply with the required performance period, taking into consideration all existing commercial and
- c. governmental business commitments;
- d. satisfactory record of integrity and business ethics;
- e. necessary organization, experience, and skills or the ability to obtain them;
- f. necessary equipment and facilities or the ability to obtain them; and
- g. otherwise qualified and eligible to receive an award under applicable laws and regulations.

**Subfactor 6: C-SCRM Go/No-Go Evaluation Factor**

This factor is evaluated on a go/no-go basis. The Government will evaluate whether the submitted C-SCRM Questionnaire and C-SCRM Software Producer Attestation Form meet the definition for the “Go” or “No-Go” ratings for this factor. The “Go” and “No-Go” ratings and their definitions are as follows:

**Measure of Merit:**

Rating	Rating Definition
GO	The proposal meets the criteria in the following two (2) paragraphs.  The C-SCRM Questionnaire meets all of the following: (1) complies with the C-SCRM Questionnaire’s instructions; and (2) contains “Yes” answers for all questions in Sections 2 and 3 of the questionnaire.

	<p>For vendors offering critical software, the C-SCRM Software Producer Attestation Form is completed for each software producer and meets the following: (1) name of software producer is provided; (2) description of which product or products the statement refers to is provided; and (3) contains a statement attesting that the software products listed in Item Number 1.3 of this form follow the Secure Software Development Framework (SSDF) as identified in NIST SP 800-218.</p>
<p><b>NO-GO</b></p>	<p>The proposal <b>does not meet</b> one (1) or more of the criteria in the following two (2) paragraphs.</p> <p>The C-SCRM Questionnaire meets all the following: (1) complies with the C-SCRM Questionnaire’s instructions; and (2) contains “Yes” answers for all questions in the C-SCRM Questionnaire.</p> <p>For vendors offering critical software, the C-SCRM Software Producer Attestation Form is completed for each software producer and meets the following: (1) name of software producer is provided; (2) description of which product or products the statement refers to is provided; and (3) contains a statement attesting that the software products listed in Item Number 1.3 of this form follow the SSDF as identified in NIST SP 800-218.</p>

**BASIS FOR CONTRACT AWARD**

The Government’s evaluation of proposals will be conducted utilizing the evaluation factors of: 1. Technical Capability, 2. Price. Evaluation of these factors will utilize a Lowest Price, Technically Acceptable (LPTA) evaluation approach in accordance with FAR Part 12; whereby the Government seeks to award on the basis of the lowest evaluated price of proposal that meets the listed technical specifications and past performance. Under the LPTA evaluation process, trade-offs will NOT be permitted between price, and the non-price factors. Only one award will be made as a result of this solicitation.

The Government reserves the right to award a contract without discussions. Upon completion of the Government’s initial evaluation of proposals, exchanges with offerors may occur, for the purpose of clarifications and communications in accordance with FAR Part 12. The Government reserves the right to conduct discussions with offerors for the purpose of negotiations at any point during the evaluation if deemed in the best interest of the Government. If discussions are conducted, the Contracting Officer will request Final Proposal Revisions from each of the offerors remaining within the competitive range.

**AWARD SELECTION:**

The prices of all technically acceptable firms will then be reviewed, and the award selection will be made on the lowest evaluated price to the responsible offeror. This is a commercial acquisition for which debriefing is not required and none will be provided.

**ADDENDUM TO EVALUATION FACTORS  
FAR AND DOSAR PROVISION(S) NOT PRESCRIBED IN PART 12**

*The following FAR provision(s) is/are provided in full text:*

**FAR 52.217-5 - Evaluation of Options (Jul 1990)**

The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of provision)

**FAR 52.225-17 - Evaluation of Foreign Currency Offers (Feb 2000)**

If the Government receives offers in more than one currency, the Government will evaluate offers by converting the foreign currency to United States currency at the official United State Department of State foreign currency exchange rate in effect as follows:

- a. For acquisitions conducted using sealed bidding procedures, on the date of bid opening.
- b. For acquisitions conducted using negotiation procedures—
  1. On the date specified for receipt of offers, if award is based on initial offers; otherwise
  2. On the date specified for receipt of proposal revisions.

(End of provision)

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## SECTION V - REPRESENTATIONS AND CERTIFICATION

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### **FAR 52.212-3 - Offeror Representations and Certifications - Commercial Products and Commercial Services (Dec 2022)**

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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, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300. 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"—

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 its field of operation, 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, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300.

(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 Products and Commercial Services, 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 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). Check all that apply.

(1) Small business concern. The offeror represents as part of its offer that—

(i) It \_\_\_ is, \_\_\_ is not a small business concern; or

(ii) It \_\_\_ is, \_\_\_ is not a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). [ The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_\_.]

(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—

(i) It \_\_\_ is, \_\_\_ is not a service-disabled veteran-owned small business concern; or

(ii) It \_\_\_ is, \_\_\_ is not a joint venture that complies with the requirements of 13 CFR 125.18(b)(1) and (2). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_\_.] Each service-disabled veteran-owned small business concern participating in the joint venture shall provide representation of its service-disabled veteran-owned small business concern status.

(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 joint venture eligible under the WOSB Program. The offeror represents that it \_\_\_ is, \_\_\_ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [ The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_\_.]

(7) Economically disadvantaged women-owned small business (EDWOSB) joint venture. The offeror represents that it \_\_\_ is, \_\_\_ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [ The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_\_.]

(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, as having been certified by SBA as a HUBZone small business concern in the Dynamic Small Business Search and SAM, and will attempt to maintain an employment rate of HUBZone residents of 35 percent of its employees during performance of a HUBZone contract (see 13 CFR 126.200(e)(1)); and

(ii) It \_\_\_ is, \_\_\_ is not a HUBZone joint venture that complies with the requirements of 13 CFR 126.616(a) through (c). [ The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.

(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 <http://uscode.house.gov/> 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 and that each domestic end product listed in paragraph (f)(3) of this provision contains a critical component, 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. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select “no”.

(iii) The Offeror shall separately list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).



(iv) The terms "commercially available off-the-shelf (COTS) item," "critical component," "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	Exceeds 55% domestic content (yes/no)

[List as necessary]

(3) Domestic end products containing a critical component:

Line Item No. \_\_\_\_

[List as necessary]

(4) 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 and that each domestic end product listed in paragraph (g)(1)(iv) of this provision contains a critical component.

(B) The terms "Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product," "commercially available off-the-shelf (COTS) item," "critical component," "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."

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

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. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select "no".

Other Foreign End Products:

Line Item No.	Country of Origin	Exceeds 55% domestic content (yes/no)

[List as necessary]

(iv) The Offeror shall list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).

Line Item No. \_\_\_\_

[List as necessary]

(v) 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 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 Israeli end products as defined in the clause of this solicitation entitled "Buy American—Free Trade Agreements—Israeli Trade Act":

Israeli End Products:

Line Item No.

[List as necessary]

(3) Buy American-Free Trade Agreements-Israeli Trade Act Certificate, Alternate III. If Alternate III to the clause at 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]

(4) 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

(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.

(1) 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 the SAM to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (1)(3) through (1)(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 e-mail 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 (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 website 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 website a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(iii) A publicly accessible website includes the Offeror's own website 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 website(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)

Alternate I (Oct 2014). As prescribed in 12.301(b)(2), add the following paragraph (c)(11) to the basic provision:

(11) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) of this provision.)

\_\_\_ Black American.

\_\_\_ Hispanic American.

\_\_\_ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

\_\_\_ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, Republic of Palau, Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

\_\_\_ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

\_\_\_ Individual/concern, other than one of the preceding.



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)

#### **FAR 52.229-11 - Tax on Certain Foreign Procurements - Notice and Representation (Jun 2020)**

(a) Definitions. As used in this provision—

Foreign person means any person other than a United States person.

Specified Federal procurement payment means any payment made pursuant to a contract with a foreign contracting party that is for goods, manufactured or produced, or services provided in a foreign country that is not a party to an international procurement agreement with the United States. For purposes of the prior sentence, a foreign country does not include an outlying area.

United States person as defined in 26 U.S.C. 7701(a)(30) means

(1) A citizen or resident of the United States;

(2) A domestic partnership;

(3) A domestic corporation;

(4) Any estate (other than a foreign estate, within the meaning of 26 U.S.C. 701(a)(31)); and

(5) Any trust if—

(i) A court within the United States is able to exercise primary supervision over the administration of the trust; and

(ii) One or more United States persons have the authority to control all substantial decisions of the trust.

(b) Unless exempted, there is a 2 percent tax of the amount of a specified Federal procurement payment on any foreign person receiving such payment. See 26 U.S.C. 5000C and its implementing regulations at 26 CFR 1.5000C-1 through 1.5000C-7.

(c) Exemptions from withholding under this provision are described at 26 CFR 1.5000C-1(d)(5) through (7). The Offeror would claim an exemption from the withholding by using the Department of the Treasury Internal Revenue Service Form W-14, Certificate of Foreign Contracting Party Receiving Federal Procurement Payments, available via the internet at [www.irs.gov/w14](http://www.irs.gov/w14). Any exemption claimed and self-certified on the IRS Form W-14 is subject to audit by the IRS. Any disputes regarding the imposition and collection of the 26 U.S.C. 5000C tax are adjudicated by the IRS as the 26 U.S.C. 5000C tax is a tax matter, not a contract issue. The IRS Form W-14 is provided to the acquiring agency rather than to the IRS.

(d) For purposes of withholding under 26 U.S.C. 5000C, the Offeror represents that

(1) It  is  is not a foreign person; and

(2) If the Offeror indicates "is" in paragraph (d)(1) of this provision, then the Offeror represents that—I am claiming on the IRS Form W-14  a full exemption, or  partial or no exemption [Offeror shall select one] from the excise tax.

(e) If the Offeror represents it is a foreign person in paragraph (d)(1) of this provision, then—

(1) The clause at FAR 52.229-12, Tax on Certain Foreign Procurements, will be included in any resulting contract; and

(2) The Offeror shall submit with its offer the IRS Form W-14. If the IRS Form W-14 is not submitted with the offer, exemptions will not be applied to any resulting contract and the Government will withhold a full 2 percent of each payment.

(f) If the Offeror selects "is" in paragraph (d)(1) and "partial or no exemption" in paragraph (d)(2) of this provision, the Offeror will be subject to withholding in accordance with the clause at FAR 52.229-12, Tax on Certain Foreign Procurements, in any resulting contract.

(g) A taxpayer may, for a fee, seek advice from the Internal Revenue Service (IRS) as to the proper tax treatment of a transaction. This is called a private letter ruling. Also, the IRS may publish a revenue ruling, which is an official interpretation by the IRS of the Internal Revenue Code, related statutes, tax treaties, and regulations. A revenue ruling is the conclusion of the IRS on how the law is applied to a specific set of facts. For questions relating to the interpretation of the IRS regulations go to <https://www.irs.gov/help/tax-law-questions>.

(End of provision)

ADDENDUM TO REPRESENTATIONS AND CERTIFICATIONS  
FAR AND DOSAR PROVISION(S) NOT PRESCRIBED IN PART 12

*The following provision are provided in full text:*

**DOSAR 652.225-70 - Arab League Boycott of Israel (Aug 1999)**

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(a) Definitions. As used in this provision:

Foreign person means any person other than a United States person as defined below.

United States person means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as provided under the Export Administration Act of 1979, as amended.

(b) Certification. By submitting this offer, the offeror certifies that it is not:

(1) Taking or knowingly agreeing to take any action, with respect to the boycott of Israel by Arab League countries, which Section 8(a) of the Export Administration Act of 1979, as amended (50 U.S.C. 2407(a)) prohibits a United States person from taking; or,

(2) Discriminating in the award of subcontracts on the basis of religion.

(End of provision)

**DOSAR 652.228-70 - Defense Base Act - Covered Contractor Employees (Feb 2015)**

(a) Bidders/offerors shall indicate below whether or not any of the following categories of employees will be employed on the resultant contract, and, if so, the number of such employees:

Category	Yes/No	Number
(1) United States citizens or residents		
(2) Individuals hired in the United States, regardless of citizenship		
(3) Local nationals or third country nationals where contract performance takes place in a country where there are no local worker's compensation laws		Local Nationals: Third Country Nationals:
4) Local nationals or third country nationals where performance takes place in a country where there are local worker's compensation laws		Local Nationals: Third Country Nationals:

(b) The contracting officer has determined that for performance in the country of "United Kingdom".

Worker's compensation laws exist that will cover local nationals and third country nationals.

Worker's compensation laws do not exist that will cover local nationals and third country nationals.

(c) If the bidder/offeror has indicated "yes" in block (a)(4) of this provision, the bidder/offeror shall not purchase Defense Base Act insurance for those employees. However, the bidder/offeror shall assume liability toward the employees and their beneficiaries for war-hazard injury, death, capture, or detention, in accordance with the clause at FAR 52.228-4.

(End of provision)

**Contractor - Recruitment of Third Country Nationals (TCNs)**

Definition: For the purposes of this provision, a Third Country National (TCN) is a citizen of other than the United States of America and the country of performance.

If offeror has entered a number for "Third Country Nationals" under category (4) in the Provision at DOSAR 652.228-70, the Contractor certifies that:

- (i) [ ] It will provide accommodation for the listed Third Country Nationals (TCNs).
- (ii) [ ] It will not provide accommodation for the listed Third Country Nationals (TCNs).

(End of provision)

**Addendum to DOSAR 652.242-73 - Authorization and Performance (Aug 1999)**

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**CERTIFICATION**

I, as duly authorized representative of the offeror, hereby certify that the Contractor I am representing has obtained or will prior to providing services in any of the countries covered by this contract obtain all necessary licenses and permits and authorization to operate and do business in the country or countries of performance as required by the clause at DOSAR 652.242-73. Furthermore, the Contactor will comply with all laws, decrees and regulations of said country or countries.

**CONTRACTOR:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name & Title

**{END OF SOLICITATION}**