



**U.S. Department of Justice**  
*Federal Bureau of Prisons*

*Field Acquisition Office*

*Grand Prairie, Texas 75051*

May 9, 2017

Natural Energy Utility Corporation  
2560 Hoods Creek Pike  
Ashland, KY 41102  
Attention: H. Jay Freeman

Re: Notification of Award --- Natural Gas Utility Services  
Contract Number DJBP010200000015  
Solicitation Number RFQ01021700002A

Dear Mr. Freeman:

This is the official notification of the establishment of contract number DJBP010200000015, in response to the above solicitation for Natural Gas Utility Services at the Federal Correction Institution in Ashland, Kentucky.

Enclosed is your copy of the award form, Standard Form (SF-1449). In accordance with FAR 42.202 and 43.302, the Contract Administration Office (CAO) is empowered to perform the day-to-day administrative functions, monitor delivery of services, and negotiate changes in the terms and conditions of this contract. Paul (Charles) Preece is the Supervisory Contract Specialist and shall be your first point of contact for contractual issues. He may be reached by phone at (606) 928-6414 x 4094 or via email to [cpreece@bop.gov](mailto:cpreece@bop.gov).

As acknowledgement of this contract, please sign page 3 of this letter and page 2 of the COR letter, the SF-1449, and return the originals via email to Mr. Preece with a Cc to me. Mark Fox, Engineering Tech., will serve as the Contracting Officer's Representative (COR) for this contract.

The period of the contract extends from **June 1, 2017 through May 31, 2027**.

Please note that FAR 52.203-17 Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights (Apr 2014) requires that you distribute the attached Whistleblower Information document to all employees, including subcontractor employees, and acknowledge that you have done so by signing page three of this letter.

The Federal Bureau of Prisons is very pleased to have this opportunity to work with you. We look forward to a cooperative working relationship.

Regards,


**Bonnie  
Bueter**

Digitally signed by Bonnie Bueter  
DN: cn=Bonnie Bueter, o, ou,  
email=bpannhoff@bop.gov, c=US  
Date: 2017.05.09 12:36:34 -0500

**Bonnie Bueter  
Contracting Officer  
Federal Bureau of Prisons  
Field Acquisition Office**

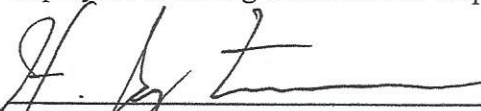
Acknowledgement of Award, DJBP010200000015

**(Please return to Contract Administration Office):** cpreece@bop.gov with a cc to  
bbueter@bop.gov.

  
\_\_\_\_\_  
Natural Energy Utility Corporation  
Attention: H. Jay Freeman

5-11-2017  
Date

Acknowledgement that the Whistleblower Information document has been distributed to all  
employees including subcontractor employees.

  
\_\_\_\_\_  
Natural Energy Utility Corporation  
Attention: H. Jay Freeman

5-11-2017  
Date



**U.S. Department of Justice**  
*Federal Bureau of Prisons*  
*Administration Division*

*Field Acquisition Office*  
*Grand Prairie, Texas 75051*

May 9, 2017

Natural Energy Utility Corporation  
2560 Hoods Creek Pike  
Ashland, KY 41102  
Attention: H. Jay Freeman

Re: Notification of Award --- Natural Gas Utility Services  
Contract Number DJBP010200000015  
Solicitation Number RFQ01021700002A

Dear Mr. Freeman:

This letter is in reference to the appointment of Mark Fox as the Contract Officer's Representative (COR) and his authority as the COR for DJBP010200000015, Natural Gas Utility Service. This appointment is in accordance with JAR 2801.7001-702(d) and will remain in effect for the life of the contract unless; (a) the appointment is terminated in writing by the Contracting Officer; (b) the COR is reassigned; (c) COR's employment with the Government is terminated.

The COR will represent the Contracting Officer for all technical matters that arise under this contract. In this respect, Federal Acquisition Regulations specify that the COR shall; (a) familiarize herself with the terms and conditions of the contract, particularly those which fall within the areas of her authority; (b) monitor technical efforts and progress and discuss these matters as appropriate; (c) respond to inquiries on purely technical aspects of the contract; (d) review progress reports to determine if there has been technical and/or physical progress commensurate with the level of expenditures affecting the progress or cost of the contract; (e) inspect the submittals and services delivered to determine conformance with the contract requirements and recommend to the Contracting Officer acceptance or rejection; and (f) serve as liaison between the Contractor and the Contracting Officer, and maintain relationship with the Contractor and all Subcontractors on the job only through the Contractor's Job Superintendent. Also, the COR is required to forward to the Contracting Officer a copy of all correspondence with the Contractor including memorandum or significant verbal discussion.

Notwithstanding the authorities delegated in paragraph two above, the COR; (a) shall not re-delegate any authority to any other person; (b) shall not change orders/modifications to the contract; (c) shall not obligate the payment of any money by the Government; and (d) shall not cause the Contractor to incur cost not otherwise covered by the contract with the expectation that such cost will be reimbursed by the Government.



Please contact one of the Contracting Officers at FCI Ashland for guidance, if you are in doubt about the extent of the COR's authority or any circumstances not covered above.

Sincerely,

Bonnie  
Bueter

Digitally signed by Bonnie Bueter  
DN: cn=Bonnie Bueter, o, ou,  
email=bpannahoff@fbop.gov, c=US  
Date: 2017.05.09 12:48:09 -05'00'

Bonnie Bueter  
Contract Specialist  
FAO - Field Acquisition Office  
U.S. Armed Forces Reserve Complex  
346 Marine Forces Drive  
Grand Prairie, TX 75051

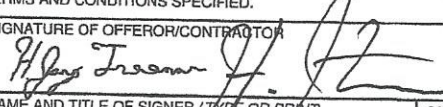
**Please sign and return a copy of this letter to: FCI Ashland with a CC to myself**

I hereby acknowledge I understand the authority of the appointed COR for DJBP010200000015.

  
Signature

5-11-2017  
Date

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS**  
**OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24 & 30**

2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER RFQP01021700002A	6. SOLICITATION ISSUE DATE 02/23/2017
7. FOR SOLICITATION INFORMATION CALL:		a. NAME Bonnie Bueter		b. TELEPHONE NUMBER (No collect calls) 817-789-5095	8. OFFER DUE DATE / LOCAL TIME 03/06/2017 14:00:00
9. ISSUED BY Federal Bureau of Prisons Field Acquisition Office U.S. Armed Forces Reserve Complex 346 Marine Forces Drive Grand Prairie, TX 75051			CODE BFAO	10. THE ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR	
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE			12. DISCOUNT TERMS NET 30		13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>
15. DELIVER TO Federal Bureau of Prisons FPC Alderson One Glen Ray Road Alderson, WV 24910			CODE BASH	16. ADMINISTERED BY Federal Bureau of Prisons FCI Ashland PO BOX 888 ASHLAND, KY 41105	
17a. CONTRACTOR/OFFEROR Natural Energy Utility Corporation 2560 Hoods Creek Pike Ashland, Kentucky 41102			CODE	18a. PAYMENT WILL BE MADE BY Federal Bureau of Prisons FCI Ashland PO BOX 888 ASHLAND, KY 41105	
TELEPHONE NO. O-606-324-3920 C-606-923-6382			CODE	18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM	
17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>			19. ITEM NO.		
20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE
24. AMOUNT					
Natural Gas Distribution for FCI Ashland Firm Tariff gas supply (Residential, Nursing homes, Correctional Institutions, commercial, Schools, small industrial and Hospitals)			52,477	MCF	\$6.69
Firm Transportation (Natural Energy Utility does not currently have gas transportation in its Tariffs will have to be approved by KyPSC)			52,477	MCF	\$351,071.13
Interruptible Transportation (Natural Energy Utility does not currently have gas transportation in its Tariffs will have to be approved by special contract)			52,477	MCF	
See Continuation Sheet(s) (Use Reverse and/or Attach Additional Sheets as Necessary)					
25. ACCOUNTING AND APPROPRIATION DATA				26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA			27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA		
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.			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:		
30a. SIGNATURE OF OFFEROR/CONTRACTOR 			31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)		
30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT) H. Jay Freeman, President		30c. DATE SIGNED 2-28-2017	31b. NAME OF THE CONTRACTING OFFICER (TYPE OR PRINT)		31c. DATE SIGNED

AUTHORIZED FOR LOCAL REPRODUCTION  
PREVIOUS EDITION IS NOT USABLE

5-11-2017

STANDARD FORM 1449 (REV. 2/2012)  
Prescribed by GSA - FAR (48 CFR) 53.212

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN

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

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



Section 2 - Commodity or Services Schedule

SCHEDULE OF SUPPLIES/SERVICES  
CONTINUATION SHEET

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	Performance Period 1 - Natural Gas Distribution Service	1.000000	YR	\$ _____	\$ _____
0002	Performance Period 2 - Natural Gas Distribution Service	1.000000	YR	\$ _____	\$ _____
0003	Performance Period 3 - Natural Gas Distribution Service	1.000000	YR	\$ _____	\$ _____
0004	Performance Period 4 - Natural Gas Distribution Service	1.000000	YR	\$ _____	\$ _____
0005	Performance Period 5 - Natural Gas Distribution Service	1.000000	YR	\$ _____	\$ _____
0006	Performance Period 6 - Natural Gas Distribution Service	1.000000	YR	\$ _____	\$ _____
0007	Performance Period 7 - Natural Gas Distribution Service	1.000000	YR	\$ _____	\$ _____
0008	Performance Period 8 - Natural Gas Distribution Service	1.000000	YR	\$ _____	\$ _____
0009	Performance Period 9 - Natural Gas Distribution Service	1.000000	YR	\$ _____	\$ _____
0010	Performance Period 10 - Natural Gas Distribution Service	1.000000	YR	\$ _____	\$ _____

Requisition Number 0306-15

A.1 Statement of Requirements

Natural Gas Distribution Service  
FCI Ashland, KY

*We need to  
Complete for  
each I think*

Introduction

The Federal Bureau of Prisons, Field Acquisition Office, Grand Prairie, Texas, intends to make a single award to a contractor for the provision of Natural Gas Distribution Services to the Federal Correctional Institution (FCI) located at State Route 716, Ashland, KY 41105.

General Description of Natural Gas Distribution Services

The FCI facilities are capable of providing housing to approximately 1,245 inmates, with ancillary facilities to serve the various components of the facility. The Bureau of Prisons (Bureau) operates systems that facilitate the institution's mission; food service and laundry operations; central utility plant and mechanical operations; domestic use and consumption; landscape. Natural gas distribution services from the contractor in adequate supply to accommodate the FCI without interruption are required.

The contract is for *transportation* of natural gas only.

Natural Gas Distribution Service Requirements

The Bureau has a requirement for the continued provision of natural gas distribution services to operate the FCI located near the City of Ashland, Boyd County, Kentucky, as noted in this Statement of Requirements.

The system must be capable of an increase in service in the event the Bureau would have a mission, industrial equipment or utilities requirement change in the future. The following service requirements and load data are provided to the contractor as estimates for the FCI natural gas distribution service:



- Estimated service pressure: 30 psi (must maintain pressure at the Ashland FCI Powerhouse)
- Estimated annual gas usage: 65,596 MCF (with an anticipated 20% reduction due to an ESPC contract. This would reduce it to 52,477 MCF)

ASHLAND	Maximum Connected Load MBH	Maximum Connected Load MCF	Minimum Delivery Pressure	Note
FCI	26,892	28.3	30	PSI @ Powerhouse
FCP	15,633	16.5	10	PSI @ Camp
Residences	1,440	1.5	14"	W.C. @ Residence
Note:	Assumes	950	BTU/CF	

Any new system or improvements to a contractor's existing systems will be designed and constructed to include capacity and equipment necessary to meet the service characteristics as specified in this Statement of Requirements.

The point of service connection between the Government facility and Contractor's system, as well as any connecting facilities installed by the Contractor on Government premises, shall be as shown in Attachment 3 (available upon request). All meters shall be installed by the Contractor in a manner that allows verification of billing determinants by Government personnel. The gas meter(s) shall be owned, installed, operated, and maintained by the Contractor.

The resulting service contract will accommodate the Bureau facility estimated natural gas distribution service requirements and operations. Estimated natural gas demand for the Bureau facilities is provided for the Contractor's benefit and not a guarantee of usage. No penalties will be assessed by the Contractor for deviations (+) or (-) the estimated annual facility usage. The Bureau will make every effort to accurately identify the facility usage and demand. The Contractor shall furnish all labor, material, tools, equipment, and incidentals to deliver direct supply natural gas as defined in this Statement of Requirements. Contract performance shall be accomplished in accordance with the terms and conditions of this contract.

### Pricing Methodology

- Prices indicated in the Schedule of Supplies/Services shall be all inclusive and must include all distribution costs to the facility, costs for nominations, marketer fees/profit, pooling, balancing, all costs for owning and maintaining the local gas pipeline and metering equipment.
- Pricing shall not include any Gross Receipts Tax or similar tax for which the Government may be liable. If applicable, these taxes would be paid by the Government as a separate line item on the invoice.

### Point of Delivery

The contractor will be required to distribute natural gas to a demarcation point located at the west point of the entrance road at the water towers of the BOP site. Delivery service shall include all FCI Ashland facilities including but not limited to the buildings listed on Attachment 4, Facilities (available upon request)

The Bureau hereby grants to the Contractor, free of any rental or similar charge, but subject to the limitations and terms specified in this agreement, revocable right of access to enter the service location of the proposed gas utility/connection and meter. Authorized representatives of the utility contractor, when properly identified, will be allowed access to the gas pipeline, meter and connection facilities at reasonable and suitable times to perform contractor obligations with respect to such facilities (e.g., making repairs, reading meters, making inspection or for any other purpose incident to the proposed gas utility service). It is expressly understood; however, that proper Bureau of Prisons authority may limit or



restrict access herein granted in the manner considered by such authority to be necessary for the security of the FCI.

### Metering

The contractor will be required to provide metering capabilities to accurately monitor and record the total natural gas consumption from each level of service to the BOP facilities. The contractor will be responsible for maintaining, operating, monitoring and calibrating the metering equipment.

### Service Terms and Conditions

A. The BOP shall in no event be liable or responsible for damage or injury to any person or property occasioned through the use or operation of the contractor's facilities or the action of the contractor, its employees or agents in performing under this contract, provided that the contractor not be liable for the action of the BOP, its employees or agents.

B. Provided that this contract is executed pursuant to the authority of 40 USC 481 and may be modified, amended, or repealed as provided by law; and further, where any provision(s) of this contract are in conflict current rates/ordinances; or any subsequently enacted rate (ordinance), the ordinance and/or rate schedule then in effect shall prevail, provided that none of the above is contrary to Federal law.

### Section 3 - Contract Clauses

#### A.1 ADDENDUM TO FAR 52.212-4, Contract Terms and Conditions - Commercial Items (JAN 2017)

The terms and conditions for the following clauses are hereby incorporated into this solicitation and resulting contract as an addendum to FAR clause 52.212-4.

#### Clauses By Reference

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)	
This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): <a href="http://www.acquisition.gov/far">www.acquisition.gov/far</a>	
Clause	Title
2852.223-70	Unsafe Conditions Due to the Presence of Hazardous Material (June 1996)
52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper (May 2011)
52.212-4	Contract Terms and Conditions - Commercial Items (JAN 2017)
52.232-18	Availability Of Funds (Apr 1984)
52.241-4	Change in Class of Service (Feb 1995)
52.241-5	Contractor's Facilities (Feb 1995)
52.253-1	Computer Generated Forms (Jan 1991)
52.209-5	Representation Regarding Felony Conviction Under Any Federal Law or Unpaid Delinquent Tax Liability



52.223-5	Pollution Prevention and Right-to-Know Information (May 2011)
52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)
52.242-13	Bankruptcy (July 1995)
52.242-71	Evaluation Of Contractor Performance Utilizing CPARS (APR 2011)
52.202-1	Definitions (Nov 2013)
52.203-5	Covenant Against Contingent Fees (May 2014)
52.203-7	Anti-Kickback Procedures (May 2014)
52.232-39	Unenforceability of Unauthorized Obligations (Jun 2013)

### 3.A2 CONTINUATION OF FAR 52.212-4

TAILORING: In accordance with FAR 12.302, the clause at 52.212-4 is hereby tailored to modify the following elements of the clause to adapt to the market conditions.

At paragraph (d) 'Disputes,' the requirements are supplemented to provide that matters involving the interpretation of retail rates, rate schedules, tariffs, riders, and tariff related terms provided under this contract and related matters involving the interpretation of retail rates, rate schedules, tariffs, riders, and tariff related terms provided in the contract terms and conditions of service are subject to the jurisdiction and regulation of the utility rate commission having jurisdiction.

At paragraph (f) 'Excusable Delay' the Statement of Requirements section concerning Force Majeure overcomes and has precedence over the Excusable Delays section of the clause in its entirety.

At paragraph (g), 'Invoices,' (vi), 'Terms of any discount for prompt payment offered;' and (i), 'Payment,' (2), 'Prompt Payment' and (4), 'Discount.' Prompt payment regulations applies to invoice payments on all contracts, except contracts with payment terms and late payment penalties established by other governmental authority (e.g., tariffs).

At paragraph (m), 'Termination for Cause.' The following section on Termination for Cause overcomes and has precedence over the Termination for Cause section of the clause at FAR 52.212-4(m) in its entirety. The government may terminate for cause in the event of a material failure to comply with any term or condition which is not remedied within 5 business days from the date of notice of default. In the event of termination for cause, the government shall not be liable to the contractor for any amount for supplies of services not accepted, and the contractor shall be liable to the government for any and all rights and remedies provided by law. If it is determined that the government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

This contract incorporates one or more agency [DOJ] approved clauses by reference (included above) with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): [Federal Acquisition Regulation <http://www.acquisition.gov> or 48 CFR Chapter 1 <http://ecfr.gpoaccess.gov>], [Justice Acquisition Regulations 48 CFR Chapter 28] <http://ecfr.gpoaccess.gov>, [USDOJ Procurement Guidance Document(s) (DOJ-PGDs)]: <http://dojnet.doj.gov/jmd/cao/procurement-guidance.php>

#### Clauses By Full Text

#### 52.21-603-70 CONTRACTING OFFICER'S REPRESENTATIVE (COR) (JUN 2012)

- (a) \* is hereby designated as the Contracting Officer's Representative (COR) under this contract.
- (b) The COR is responsible, as applicable, for: receiving all deliverables, inspecting and accepting the supplies or services provide hereunder in accordance with the terms and conditions of this contract; providing direction to the contractor which clarifies the contractor effort, fills in details or otherwise serves to accomplish the contractual Scope of Work; evaluating performance; and certifying all invoices/vouchers for acceptance of the supplies or services furnished for payment.



(c) The COR does not have the authority to alter the contractor's obligations under the contract, and/or modify any of the expressed terms, conditions, specifications, or cost of the agreement. If as a result of technical discussions it is desirable to alter/change contractual obligations or the Scope of Work, the Contracting Officer shall issue such changes.

\*A COR may be appointed at a later date via a unilateral modification.

#### **52.241-6 SERVICE PROVISIONS (FEB 1995)**

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(a) Measurement of service.

- (1) All service furnished by the Contractor shall be measured by suitable metering equipment of standard manufacture, to be furnished, installed, maintained, repaired, calibrated, and read by the Contractor at its expense. When more than a single meter is installed at a service location, the readings thereof may be billed conjunctively, if appropriate. In the event any meter fails to register (or registers incorrectly) the service furnished, the parties shall agree upon the length of time of meter malfunction and the quantity of service delivered during such period of time. An appropriate adjustment shall be made to the next invoice for the purpose of correcting such errors. However, any meter which registers not more than \_\_\_\_\_ percent slow or fast shall be deemed correct.
- (2) The Contractor shall read all meters at periodic intervals of approximately 30 days or in accordance with the policy of the cognizant regulatory body or applicable bylaws. All billings based on meter readings of less than \_\_\_\_\_ days shall be prorated accordingly.

(b) Meter test.

- (1) The Contractor, at its expense, shall periodically inspect and test Contractor-installed meters at intervals not exceeding \_\_\_\_\_ year(s). The Government has the right to have representation during the inspection and test.
  - (2) At the written request of the Contracting Officer, the Contractor shall make additional tests of any or all such meters in the presence of Government representatives. The cost of such additional tests shall be borne by the Government if the percentage of errors is found to be not more than \_\_\_\_\_ percent slow or fast.
  - (3) No meter shall be placed in service or allowed to remain in service which has an error in registration in excess of \_\_\_\_\_ percent under normal operating conditions.
- (c) Change in volume or character. Reasonable notice shall be given by the Contracting Officer to the Contractor regarding any material changes anticipated in the volume or characteristics of the utility service required at each location.
- (d) Continuity of service and consumption. The Contractor shall use reasonable diligence to provide a regular and uninterrupted supply of service at each service location, but shall not be liable for damages, breach of contract or otherwise, to the Government for failure, suspension, diminution, or other variations of service occasioned by or in consequence of any cause beyond the control of the Contractor, including but not limited to acts of God or of the public enemy, fires, floods, earthquakes, or other catastrophe, strikes, or failure or breakdown of transmission or other facilities. If any such failure, suspension, diminution, or other variation of service shall aggregate more than \_\_\_\_\_ hour(s) during any billing period hereunder, an equitable adjustment shall be made in the monthly billing specified in this contract (including the minimum monthly charge). (End of clause)

#### **52.27-103-72 DOJ CONTRACTOR RESIDENCY REQUIREMENT BUREAU OF PRISONS (JUN 2004)**

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For three of the five years immediately prior to submission of an offer/bid/quote, or prior to performance under a contract or commitment, individuals or contractor employees providing services must have:

1. Legally resided in the United States (U.S.);
2. worked for the U.S. overseas in a Federal or military capacity; or
3. been a dependent of a Federal or military employee serving overseas.

If the individual is not a U.S. citizen, they must be from a country allied with the U.S. The following website provides current information regarding allied countries: <http://www.opm.gov/employ/html/citizen.htm>

By signing this contract or commitment document, or by commencing performance, the contractor agrees to this restriction. (End of Clause)



**52.216-18 ORDERING (OCT 1995)**

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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 first day of the effective contract period through the last day of the effective contract period.
- (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) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule. (End of clause)

**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 one day, 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 the estimated quantities identified in the Schedule of Items within the current performance period;
  - (2) Any order for a combination of items in excess of the estimated quantities identified in the Schedule of Items with the current performance period; or
  - (3) A series of orders from the same ordering office within 30 days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.
- (c) If this is a requirements contract (*i.e.*, includes the Requirements 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) of this section.
- (d) Notwithstanding paragraphs (b) and (c) of this section, 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)

**52.216-21 REQUIREMENTS (OCT 1995)**

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- (a) This is a requirements contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.
- (b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the Order Limitations clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations. Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.



(c) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(d) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(e) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after the last day of the effective performance period. (End of clause)

#### **52.218-000 CONTINUING CONTRACT PERFORMANCE DURING A PANDEMIC INFLUENZA OR OTHER NATIONAL EMERGENCY (MAY 2008)**

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During a Pandemic or other emergency we understand that our contractor workforce will experience the same high levels of absenteeism as our federal employees. Although the Excusable Delays and Termination for Default clauses used in Government contracts list epidemics and quarantine restrictions among the reasons to excuse delays in contract performance, we expect our contractors to make a reasonable effort to keep performance at an acceptable level during emergency periods.

The Office of Personnel Management (OPM) has provided guidance to federal managers and employees on the kinds of actions to be taken to ensure the continuity of operations during emergency periods. This guidance is also applicable to our contract workforce.

Contractors are expected to have reasonable policies in place for continuing work performance, particularly those performing mission critical services, during a pandemic influenza or other emergency situation.

The types of actions a federal contractor should reasonably take to help ensure performance are:

- Encourage employees to get inoculations or follow other preventive measures as advised by the public health service.
- Cross-train workers as backup for all positions performing critical services. This is particularly important for work such as guard services where telework is not an option.
- Implement telework to the greatest extent possible in the workgroup so systems are in place to support successful remote work in an emergency.
- Communicate expectations to all employees regarding their roles and responsibilities in relation to remote work in the event of a pandemic health crisis or other emergency.
- Establish communication processes to notify employees of activation of this plan.
- Integrate pandemic health crisis response expectations into telework agreements.
- With the employee, assess requirements for working at home (supplies and equipment needed for an extended telework period). Security concerns should be considered in making equipment choices; agencies or contractors may wish to avoid use of employees' personal computers and provide them with PCs or laptops as appropriate.
- Determine how all employees who may telework will communicate with one another and with management to accomplish work.
- Practice telework regularly to ensure effectiveness.
- Make it clear that in emergency situations, employees must perform all duties assigned by management, even if they are outside usual or customary duties.
- Identify how time and attendance will be maintained.

It is the contractor's responsibility to advise the Government Contracting Officer if they anticipate not being able to perform and to work with the Department to fill gaps as necessary. This means direct communication with the Contracting Officer or in his/her absence, another responsible person in the contracting office via telephone or email messages acknowledging the contractor's notification. The incumbent contractor is responsible for assisting the Department in estimating the adverse impacts of nonperformance and to work diligently with the Department to develop a strategy for maintaining the continuity of operations.



The Department does reserve the right in such emergency situations to use Federal employees, employees of other agencies, contract support from other existing contractors, or to enter into new contracts for critical support services. Any new contracting efforts would be acquired following the guidance in the Office of federal Procurement Policy issuance "Emergency Acquisitions", May, 2007 and Subpart 18.2. Emergency Acquisition Flexibilities of the Federal Acquisition Regulations. (End of Clause)

#### **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 base year or any option year exercised. 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 base year or any option year exercised, 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)

#### **52.241-3 SCOPE AND DURATION OF CONTRACT (FEB 1995)**

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(a) For the period a maximum of 120 months the Contractor agrees to furnish and the Government agrees to purchase natural gas utility service in accordance with the applicable tariff(s), rules, and regulations as approved by the applicable governing regulatory body and as set forth in the contract.

(b) It is expressly understood that neither the Contractor nor the Government is under any obligation to continue any service under the terms and conditions of this contract beyond the expiration date.

(c) The Contractor shall provide the Government with one complete set of rates, terms, and conditions of service which are in effect as of the date of this contract and any subsequently approved rates.

(d) The Contractor shall be paid at the applicable rate(s) under the tariff and the Government shall be liable for the minimum monthly charge, if any, specified in this contract commencing with the period in which service is initially furnished and continuing for the term of this contract. Any minimum monthly charge specified in this contract shall be equitably prorated for the periods in which commencement and termination of this contract become effective. (End of clause)

#### **52.241-8 CHANGE IN RATES OR TERMS AND CONDITIONS OF SERVICE FOR UNREGULATED SERVICES (FEB 1995)**

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As prescribed in [41.501\(d\)\(2\)](#), insert a clause substantially the same as the following:  
Change in Rates or Terms and Conditions of Service for Unregulated Services (Feb 1995)

(a) This clause applies to the extent that services furnished hereunder are not subject to regulation by a regulatory body.

(b) After 90 days from date of award, either party may request a change in rates or terms and conditions of service, unless otherwise provided in this contract. Both parties agree to enter in negotiations concerning such changes upon receipt of a written request detailing the proposed changes and specifying the reasons for the proposed changes.

(c) The effective date of any change shall be as agreed to by the parties. The Contractor agrees that throughout the life of this contract the rates so negotiated will not be in excess of published and unpublished rates charged to any other customer of the same class under similar terms and conditions of use and service.

(d) The failure of the parties to agree upon any change after a reasonable period of time shall be a dispute under the Disputes clause of this contract.

(e) Any changes to rates, terms, or conditions as a result of such negotiations shall be made a part of this contract by the issuance of a contract modification.

(End of clause)



**52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

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

**52.209-5 DEVIATION REPRESENTATION REGARDING FELONY CONVICTION UNDER ANY FEDERAL LAW OR UNPAID DELINQUENT TAX LIABILITY (DEVIATION 2014-01) (NOVEMBER 2013)**

(a) In accordance with sections 536 and 537 of the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2014 (Title II, Division B, Pub. L. 113-76), none of the funds made available by that Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with a corporation –

- (1) 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 further action is not necessary to protect the interests of the Government, or
- (2) 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, 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 this further action is not necessary to protect the interests of the Government.

(b) The offeror represents that, as of the date of this offer –

- (1) the offeror is  is not  a corporation convicted of a felony criminal violation under any Federal or State law within the preceding 24 months; and,
- (2) the offeror is  is not  a corporation that has any unpaid Federal or State 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. (End of Provision)

**52.216-2 ECONOMIC PRICE ADJUSTMENT - STANDARD SUPPLIES (JAN 1997)**

(a) The Contractor warrants that the unit price stated in the Schedule for **[offeror insert Schedule line item number]** is not in excess of the Contractor's applicable established price in effect on the contract date for like quantities of the same item. The term "unit price" excludes any part of the price directly resulting from requirements for preservation, packaging, or packing beyond standard commercial practice. The term "established price" means a price that--

- (1) Is an established catalog or market price for a commercial item sold in substantial quantities to the general public; and
- (2) Is the net price after applying any standard trade discounts offered by the Contractor.

(b) The Contractor shall promptly notify the Contracting Officer of the amount and effective date of each decrease in any applicable established price. Each corresponding contract unit price shall be decreased by the same percentage that the established price is decreased. The decrease shall apply to those items delivered on and after the effective date of the decrease in the Contractor's established price, and this contract shall be modified accordingly.

(c) If the Contractor's applicable established price is increased after the contract date, the corresponding contract unit price shall be increased, upon the Contractor's written request to the Contracting Officer, by



the same percentage that the established price is increased, and the contract shall be modified accordingly, subject to the following limitations:

(1) The aggregate of the increases in any contract unit price under this clause shall not exceed 10 percent of the original contract unit price.

(2) The increased contract unit price shall be effective--

(i) On the effective date of the increase in the applicable established price if the Contracting Officer receives the Contractor's written request within 10 days thereafter; or

(ii) If the written request is received later, on the date the Contracting Officer receives the request.

(3) The increased contract unit price shall not apply to quantities scheduled under the contract for delivery before the effective date of the increased contract unit price, unless failure to deliver before that date results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of the Default clause.

(4) No modification increasing a contract unit price shall be executed under this paragraph (c) until the Contracting Officer verifies the increase in the applicable established price.

(5) Within 30 days after receipt of the Contractor's written request, the Contracting Officer may cancel, without liability to either party, any undelivered portion of the contract items affected by the requested increase.

(d) During the time allowed for the cancellation provided for in paragraph (c)(5) of this clause, and thereafter if there is no cancellation, the Contractor shall continue deliveries according to the contract delivery schedule, and the Government shall pay for such deliveries at the contract unit price, increased to the extent provided by paragraph (c) of this clause. (End of clause)

**52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014)**

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(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold. (End of clause)

**52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)**

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United States law will apply to resolve any claim of breach of this contract. (End of clause)

**DJAR-PGD-15-02-2A CORPORATE REPRESENTATION REGARDING FELONY CONVICTION UNDER ANY FEDERAL LAW OR UNPAID DELINQUENT TAX LIABILITY - AWARD (DEVIATION 2015-02) (MARCH 2015)**

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(a) None of the funds made available by the Department's current Appropriations Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with a corporation -

(1) 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 further action is not necessary to protect the interests of the Government, or

- (2) 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, 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 this further action is not necessary to protect the interests of the Government.

(b) By accepting this award or order, in writing or by performance, the offeror/contractor represents that-

- (1) the offeror is *not* a corporation convicted of a felony criminal violation under any Federal or State law within the preceding 24 months; and,
- (2) the offeror is *not* a corporation that has any unpaid Federal or State 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. (End of Clause)

**[END OF ADDENDUM TO FAR 52.212-4]**

**52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--  
COMMERCIAL ITEMS (JAN 2017)**

(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 items:

- (1) [52.209-10](#), Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).  
 (2) [52.233-3](#), Protest After Award (Aug 1996) ([31 U.S.C. 3553](#)).  
 (3) [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 items:

[Contracting Officer check as appropriate.]

- XX (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](#)).  
 XX (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.)  
 XX (4) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2016) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)).  
 \_\_\_ (5) [Reserved].  
 \_\_\_ (6) [52.204-14](#), Service Contract Reporting Requirements (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).  
 \_\_\_ (7) [52.204-15](#), Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).  
 XX (8) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Oct 2015) (31 U.S.C. 6101 note).  
 XX (9) [52.209-9](#), Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).



- \_\_\_ (10) [Reserved].
- \_\_\_ (11)(i) [52.219-3](#), Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) ([15 U.S.C. 657a](#)).
- \_\_\_ (ii) Alternate I (Nov 2011) of [52.219-3](#).
- \_\_\_ (12)(i) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer) ([15 U.S.C. 657a](#)).
- \_\_\_ (ii) Alternate I (Jan 2011) of [52.219-4](#).
- \_\_\_ (13) [Reserved]
- \_\_\_ (14)(i) [52.219-6](#), Notice of Total Small Business Set-Aside (Nov 2011) ([15 U.S.C. 644](#)).
- \_\_\_ (ii) Alternate I (Nov 2011).
- \_\_\_ (iii) Alternate II (Nov 2011).
- \_\_\_ (15)(i) [52.219-7](#), Notice of Partial Small Business Set-Aside (June 2003) ([15 U.S.C. 644](#)).
- \_\_\_ (ii) Alternate I (Oct 1995) of [52.219-7](#).
- \_\_\_ (iii) Alternate II (Mar 2004) of [52.219-7](#).
- XX (16) [52.219-8](#), Utilization of Small Business Concerns (Nov 2016) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)).
- XX (17)(i) [52.219-9](#), Small Business Subcontracting Plan (Nov 2016) ([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 (Nov 2016) of [52.219-9](#).
- \_\_\_ (v) Alternate IV (Nov 2016) of [52.219-9](#).
- \_\_\_ (18) [52.219-13](#), Notice of Set-Aside of Orders (Nov 2011) ([15 U.S.C. 644\(r\)](#)).
- \_\_\_ (19) [52.219-14](#), Limitations on Subcontracting (Jan 2017) ([15 U.S.C. 637\(a\)\(14\)](#)).
- \_\_\_ (20) [52.219-16](#), Liquidated Damages—Subcontracting Plan (Jan 1999) ([15 U.S.C. 637\(d\)\(4\)\(F\)\(ii\)](#)).
- \_\_\_ (21) [52.219-27](#), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) ([15 U.S.C. 657 f](#)).
- \_\_\_ (22) [52.219-28](#), Post Award Small Business Program Rerepresentation (Jul 2013) ([15 U.S.C. 632\(a\)\(2\)](#)).
- \_\_\_ (23) [52.219-29](#), Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) ([15 U.S.C. 637\(m\)](#)).
- \_\_\_ (24) [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 (Dec 2015) ([15 U.S.C. 637\(m\)](#)).
- XX (25) [52.222-3](#), Convict Labor (June 2003) (E.O. 11755).
- XX (26) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (Oct 2016) (E.O. 13126).
- XX (27) [52.222-21](#), Prohibition of Segregated Facilities (Apr 2015).
- XX (28) [52.222-26](#), Equal Opportunity (Sept 2016) (E.O. 11246).
- XX (29) [52.222-35](#), Equal Opportunity for Veterans (Oct 2015) ([38 U.S.C. 4212](#)).
- XX (30) [52.222-36](#), Equal Opportunity for Workers with Disabilities (Jul 2014) ([29 U.S.C. 793](#)).
- XX (31) [52.222-37](#), Employment Reports on Veterans (Feb 2016) (38 U.S.C. 4212).
- XX (32) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- XX (33)(i) [52.222-50](#), Combating Trafficking in Persons (Mar 2015) ([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).
- \_\_\_ (34) [52.222-54](#), Employment Eligibility Verification (Oct 2015). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in [22.1803](#).)
- \_\_\_ (35) [52.222-59](#), Compliance with Labor Laws (Executive Order 13673) (Oct 2016). (Applies at \$50 million for solicitations and resultant contracts issued from October 25, 2016 through April 24, 2017; applies at \$500,000 for solicitations and resultant contracts issued after April 24, 2017).  
**Note to paragraph (b)(35):** By a court order issued on October 24, 2016, 52.222-59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.
- \_\_\_ (36) [52.222-60](#), Paycheck Transparency (Executive Order 13673) (OCT 2016).
- \_\_\_ (37)(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.)



- \_\_\_ (38) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).
- \_\_\_ (39) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).
- \_\_\_ (40)(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](#).
- \_\_\_ (41)(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](#).
- \_\_\_ (42) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (Dec 2007) ([42 U.S.C. 8259b](#)).
- \_\_\_ (43)(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](#).
- XX (44) [52.223-18](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011) (E.O. 13513).
- \_\_\_ (45) [52.223-20](#), Aerosols (Jun 2016) (E.O. 13693).
- \_\_\_ (46) [52.223-21](#), Foams (Jun 2016) (E.O. 13693).
- \_\_\_ (47) [52.225-1](#), Buy American—Supplies (May 2014) ([41 U.S.C. chapter 83](#)).
- \_\_\_ (48)(i) [52.225-3](#), Buy American—Free Trade Agreements—Israeli Trade Act (May 2014) ([41 U.S.C. chapter 83](#), [19 U.S.C. 3301](#) note, [19 U.S.C. 2112](#) note, [19 U.S.C. 3805](#) note, [19 U.S.C. 4001](#) note, Pub. L. 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 (May 2014) of [52.225-3](#).
- \_\_\_ (iii) Alternate II (May 2014) of [52.225-3](#).
- \_\_\_ (iv) Alternate III (May 2014) of [52.225-3](#).
- \_\_\_ (49) [52.225-5](#), Trade Agreements (Oct 2016) ([19 U.S.C. 2501](#), et seq., [19 U.S.C. 3301](#) note).
- \_\_\_ (50) [52.225-13](#), Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- \_\_\_ (51) [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. 2302 Note](#)).
- \_\_\_ (52) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) ([42 U.S.C. 5150](#)).
- \_\_\_ (53) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) ([42 U.S.C. 5150](#)).
- \_\_\_ (54) [52.232-29](#), Terms for Financing of Purchases of Commercial Items (Feb 2002) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).
- \_\_\_ (55) [52.232-30](#), Installment Payments for Commercial Items (Jan 2017) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).
- XX (56) [52.232-33](#), Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) ([31 U.S.C. 3332](#)).
- \_\_\_ (57) [52.232-34](#), Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013) ([31 U.S.C. 3332](#)).
- \_\_\_ (58) [52.232-36](#), Payment by Third Party (May 2014) ([31 U.S.C. 3332](#)).
- \_\_\_ (59) [52.239-1](#), Privacy or Security Safeguards (Aug 1996) ([5 U.S.C. 552a](#)).
- \_\_\_ (60)(i) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. Appx. 1241\(b\)](#) and [10 U.S.C. 2631](#)).
- \_\_\_ (ii) Alternate I (Apr 2003) 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 items:  
[Contracting Officer check as appropriate.]
- \_\_\_ (1) [52.222-17](#), Nondisplacement of Qualified Workers (May 2014)(E.O. 13495).
- \_\_\_ (2) [52.222-41](#), Service Contract Labor Standards (May 2014) ([41 U.S.C. chapter 67](#)).
- \_\_\_ (3) [52.222-42](#), Statement of Equivalent Rates for Federal Hires (May 2014) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).
- \_\_\_ (4) [52.222-43](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (May 2014) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).



- \_\_\_ (5) [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](#)).
- \_\_\_ (6) [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](#)).
- \_\_\_ (7) [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](#)).
- \_\_\_ (8) [52.222-55](#), Minimum Wages Under Executive Order 13658 (Dec 2015).
- \_\_\_ (9) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).
- \_\_\_ (10) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (May 2014) ([42 U.S.C. 1792](#)).
- \_\_\_ (11) [52.237-11](#), Accepting and Dispensing of \$1 Coin (Sept 2008) ([31 U.S.C. 5112\(p\)\(1\)](#)).
- (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, 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 items. 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 (Oct 2015) ([41 U.S.C. 3509](#)).
- (ii) [52.219-8](#), Utilization of Small Business Concerns (Nov 2016) ([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 \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.
- (iii) [52.222-17](#), Nondisplacement of Qualified Workers (May 2014) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause [52.222-17](#).
- (iv) [52.222-21](#), Prohibition of Segregated Facilities (Apr 2015)
- (v) [52.222-26](#), Equal Opportunity (Sept 2016) (E.O. 11246).
- (vi) [52.222-35](#), Equal Opportunity for Veterans (Oct 2015) ([38 U.S.C. 4212](#)).
- (vii) [52.222-36](#), Equal Opportunity for Workers with Disabilities (Jul 2014) ([29 U.S.C. 793](#)).
- (viii) [52.222-37](#), Employment Reports on Veterans (Feb 2016) ([38 U.S.C. 4212](#))
- (ix) [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](#).
- (x) [52.222-41](#), Service Contract Labor Standards (May 2014) ([41 U.S.C. chapter 67](#)).
- (xi) [52.222-50](#), Combating Trafficking in Persons (Mar 2015) ([22 U.S.C. chapter 78](#) and E.O 13627). Alternate I (Mar 2015) of [52.222-50](#) ([22 U.S.C. chapter 78](#) and E.O 13627).
- (xii) [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](#)).
- (xiii) [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](#)).
- (xiv) [52.222-54](#), Employment Eligibility Verification (Oct 2015) (E.O. 12989).
- (xv) [52.222-55](#), Minimum Wages Under Executive Order 13658 (Dec 2015).
- (xvi) [52.222-59](#), Compliance with Labor Laws (Executive Order 13673) (Oct 2016) (Applies at \$50 million for



solicitations and resultant contracts issued from October 25, 2016 through April 24, 2017; applies at \$500,000 for solicitations and resultant contracts issued after April 24, 2017).

**Note to paragraph (e)(1)(xvi):** By a court order issued on October 24, 2016, 52.222-59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

(xvii) [52.222-60](#), Paycheck Transparency (Executive Order 13673) (Oct 2016)).

(xviii) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

(xix) [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. 2302 Note](#)).

(xx) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (May 2014) ([42 U.S.C. 1792](#)). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](#).

(xxi) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. Appx. 1241\(b\)](#) 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 items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

#### SECTION 4 - LIST OF ATTACHMENTS

Identifier	Title	Number of Pages
1	Business Management Questionnaire	2
2	Ashland Gas Load Information	2
3	Ashland Facilities Map (Available upon request)	1
4	Ashland Facilities (Available upon request)	1

#### 4.A SPECIAL CONTRACT CONDITIONS

**Type of Contract.** The Government contemplates award of a requirements type utility contract with firm-fixed prices ~~resulting from this solicitation.~~ It is anticipated that contract award resulting from this solicitation will be made approximately March 15, 2017.

**Reviews.** The Contracting Officer or designee is authorized to review by on-site survey, review of records, or by any other reasonable manner, the quality of services rendered under this contract. All records shall be subject to review by the Contracting Officer or other representative of the Bureau of Prisons (Bureau).

Payments will be denied when such service does not support the charges or if the service is deemed not necessary or appropriate. Such determinations may be made by the Contracting Officer or COR, whichever is appropriate. All records shall be subject to review by the Contracting Officer or other delegated representatives of the Bureau.

**Performance. The anticipated periods of performance include:** Performance Period 1: Effective Date of Award (EDOA) through 120 months from EDOA.

The Contractor shall commence full performance of services under this contract from date of award of the contract. In accordance with FAR 46.503 and 46.403(a)(6), the place of acceptance for services under this contract is at the destination, the FCI located in Ashland, Kentucky. The Contractor shall provide the contract services independent of Government supervision.



**Contract Administration:** Contracting Officer Responsibility: Authority to negotiate changes in the terms, conditions, or amounts cited in this contract is reserved to the Contracting Officer. This responsibility may be delegated to an Administrative Contracting Officer by the Contracting Officer.

Ordering Official: Task/Delivery orders may be issued only by the Contracting Officer, Administrative Contracting Officer, or an ordering official for the FCI with an appropriate certificate of appointment.

Contracting Officer's Representative (COR): The Contracting Officer will designate in writing a COR who shall be responsible for:

- a) Monitoring technical progress, including surveillance and assessment of performance and issuing technical changes;
- b) Interpreting the scope of work;
- c) Technical inspection and acceptance;
- d) Assisting in the resolution of technical problems encountered by the service provider during contract performance;
- e) Monitoring funds available for obligation;
- f) Ensuring that task orders are issued in accordance with appropriate terms;
- g) Ensuring that invoices and payments are processed in a timely manner;
- h) Assisting in the resolution of administrative problems encountered by the service provider during the contract performance.

## Section 5 - Solicitation Provisions

### A.2 ADDENDUM TO FAR 52.212-1, INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS (OCT 2015)

The terms and conditions for the following provisions are hereby incorporated into this solicitation as an addendum to FAR provision 52.212-1.

#### Provisions By Reference

<b>52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)</b>	
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. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es): <a href="http://www.acquisition.gov/far">www.acquisition.gov/far</a>	
Provision	Title
52.212-1	Instructions to Offerors--Commercial Items (Oct 2015)
52.204-7	System for Award Management (OCT 2016)
52.204-16	Commercial and Government Entity Code Reporting (JUL 2016)
52.223-22	Public Disclosure of Greenhouse Gas Emissions and Reduction Goals – Representation (DEC 2016)

## 5.A. 1 ADDENDUM TO FAR 52.212-1

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### TAILORING

In accordance with FAR 12.302(a), the provision at 52.212-1 is hereby tailored to modify the following elements of the provision.

At paragraph (c) "Period for Acceptance of Quotes," the amount of time the quoter agrees to hold the prices in its quote firm is changed to 120 calendar days from the date specified for receipt of quotes.

At paragraph (h) "Multiple Awards", this paragraph is deleted in its entirety as it has been determined to be not applicable to this solicitation.

At paragraph (i) "Availability of requirements documents cited in the solicitation," this paragraph is deleted in its entirety as it has been determined to be not applicable to this solicitation.

### A.1.2. SUBMISSION OF QUOTES

Sealed quotes shall be submitted on or before the deadline specified in Block 8 of the Standard Form 1449, Page 1 of this solicitation. Quotes shall be submitted to the following address: **bbueter@bop.gov**

Mailed, hand-carried, and faxed quotes will not be accepted.

### Instructions and Submissions

The contractor will be required to provide the following with their quote. The failure of which may result in your quote not being considered for award:

- Standard Form 1449
- Schedule of Items/Contract Pricing
- Characteristics of the proposed service.
- A detailed outline of any metering and pipeline equipment required to serve the facility as well as the associate cost to FCI Ashland for the installation and purchase of this equipment.
- Adherence to other instructions provided in the solicitation documents as required.
- Timeline for delivery of service upon execution of an agreement.
- Any required regulatory approvals that are necessary to implement the proposal. Include a timeline to receive the authority to provide the service under this regulatory approval.
- Please list any incentives or rebates, if any, that will be offered.
- The contractor is encouraged to submit any viable alternatives that may be available to the contractor and/or Government. Each alternative shall be as specific as possible as related to associated costs, or credit, to the Government.
- Business Management Questionnaire
- Offeror's Representations and Certifications if different than www.SAM.gov

***Should you have any questions or concerns regarding these submissions, please contact the contracting officer.***

All potential quoters are advised that this solicitation includes the clause at FAR 52.212-4 Contract Terms and Conditions Commercial Items (Feb 2016) which at paragraph (t), System for Award Management (SAM), requires all contractors doing business with the Federal Government to be registered in the SAM database. Quoters should include their Data Universal Numbering System (DUNS) number in their quotes. The Contracting Officer will verify registration in the SAM database prior to award by entering the potential awardee's DUNS number into the SAM database. Failure to complete the registration procedures outlined in this clause may result in elimination from consideration for award.



## Award Methodology

The Government intends to make a single award to a quoter, pursuant to an affirmative determination of responsibility, whose quote, conforming to the solicitation, is determined to be the most advantageous to the Government, considering past performance, price and technical capability.

## Provisions by Full Text

### 52.233-2 SERVICE OF PROTEST (SEPT 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 Procurement Executive, Federal Bureau of Prisons, 320 First Street N.W., Room 5005, Washington, D.C. 20534.

(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)

### 2852.233-70 PROTESTS FILED DIRECTLY WITH THE DEPARTMENT OF JUSTICE (JAN 1998)

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(a)The following definitions apply in this provision:

- (1) "Agency Protest Official" means the official, other than the contracting officer, designated to review and decide procurement protests filed with a contracting activity of the Department of Justice.
- (2) "Deciding Official" means the person chosen by the protestor to decide the agency protest; it may be either the Contracting Officer or the Agency Protest Official.
- (3) "Interested Party" means an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

(b)A protest filed directly with the Department of Justice must:

- (1) Indicate that it is a protest to the agency.
- (2) Be filed with the Contracting Officer.
- (3) State whether the protestor chooses to have the Contracting Officer or the Agency Protest Official decide the protest. If the protest- or is silent on this matter, the Contracting Officer will decide the protest.
- (4) Indicate whether the protestor prefers to make an oral or written presentation of arguments in support of the protest to the deciding official.
- (5) Include the information required by FAR 33.103(d)(2):
  - (i) Name, address, facsimile number and telephone number of the protestor.
  - (ii) Solicitation or contract number.
  - (iii) Detailed statement of the legal and factual grounds for the protest, to include a description of resulting prejudice to the protestor.
  - (iv) Copies of relevant documents.
  - (v) Request for a ruling by the agency.
  - (vi) Statement as to the form of relief requested.
  - (vii) All information establishing that the protestor is an interested party for the purpose of filing a protest.
  - (viii) All information establishing the timeliness of the protest.

(c)An interested party filing a protest with the Department of Justice has the choice of requesting either that the Contracting Officer or the Agency Protest Official decide the protest.

(d)The decision by the Agency Protest Official is an alternative to a decision by the Contracting Officer. The Agency Protest Official will not consider appeals from the Contracting Officer's decision on an agency protest.

(e)The deciding official must conduct a scheduling conference with the protestor within five (5) days after the protest is filed. The scheduling conference will establish deadlines for oral or written arguments in support of the agency protest and for agency officials to present information in response to the protest



issues. The deciding official may hear oral arguments in support of the agency protest at the same time as the scheduling conference, depending on availability of the necessary parties.

- (f) Oral conferences may take place either by telephone or in person. Other parties may attend at the discretion of the deciding official.
- (g) The protestor has only one opportunity to support or explain the substance of its protest. Department of Justice procedures do not provide for any discovery. The deciding official may request additional information from either the agency or the protestor. The deciding official will resolve the protest through informal presentations or meetings to the maximum extent practicable.
- (h) An interested party may represent itself or be represented by legal counsel. The Department of Justice will not reimburse the protester for any legal fees related to the agency protest.
- (i) The Department of Justice will stay award or suspend contract performance in accordance with FAR 33.103(f). The stay or suspension, unless over-ridden, remains in effect until the protest is decided, dismissed, or withdrawn.
- (j) The deciding official will make a best effort to issue a decision on the protest within twenty (20) days after the filing date. The decision may be oral or written.
- (k) The Department of Justice may dismiss or stay proceeding on an agency protest if a protest on the same or similar basis is filed with a protest forum outside the Department of Justice. (End of Provision)

#### **52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)**

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

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

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

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

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

(b) The offeror does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

- (1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

- (i) In a criminal proceeding, a conviction.



(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in--

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management database via <https://www.acquisition.gov> (see 52.204-7).

(End of provision)

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#### **52.27-103-71 FAITH BASED AND COMMUNITY BASED ORGANIZATIONS (AUG 2005)**

Faith-based and Community-based organizations can submit offers/bids/quotations equally with other organizations for contracts for which they are eligible. (End of Provision)

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#### **DJAR-PGD-15-02-1C CONTRACTOR CERTIFICATION OF COMPLIANCE WITH FEDERAL TAX REQUIREMENTS - SOLICITATION - (DEVIATION 2015-02) (MARCH 2015)**

By submitting a response to this solicitation, the contractor certifies that, to the best of its knowledge, information and belief, the contractor has (a) filed all Federal tax returns required during the three years preceding the certification, (b) not been convicted of a criminal offense under the Internal Revenue Code of 1986, and (c) not been notified, more than 90 days before the subject certification, of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding. (End of Provision)

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#### **DJAR-PGD-15-02-1B CONTRACTOR INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS PROHIBITING OR RESTRICTING REPORTING OF WASTE, FRAUD, AND ABUSE - SOLICITATION - (DEVIATION 2015-02) (MARCH 2015)**

None of the funds appropriated to the Department under its current Appropriations Act may be used to enter into a contract, grant, or cooperative agreement with an entity that requires employees or contractors of such entity that requires employees or contractors of such entity seeking to report fraud, waste, and abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors 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. By submitting a response to this solicitation, the contractor certifies that it does *not* require employees or contractors of the contractor seeking to report fraud, waste, and abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees



or contractors from lawfully reporting waste, fraud, and abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.  
(End of Provision)

## 5.A.2 ADDITIONAL INFORMATION

THIS SOLICITATION DOCUMENT, INCORPORATED PROVISIONS ARE THOSE IN EFFECT THROUGH FEDERAL ACQUISITION CIRCULAR 2005-95. IF THIS SOLICITATION CONTAINS ANY PROVISION THAT HAS SINCE BEEN AMENDED, UPON REQUEST, THE CO WILL MAKE THEIR FULL TEXT AVAILABLE.

### 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (DEC 2016)

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

(a) Definitions. As used in this provision—

“Administrative merits determination” means certain notices or findings of labor law violations issued by an enforcement agency following an investigation. An administrative merits determination may be final or be subject to appeal or further review. To determine whether a particular notice or finding is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

“Arbitral award or decision” means an arbitrator or arbitral panel determination that a labor law violation occurred, or that enjoined or restrained a violation of labor law. It includes an award or decision that is not final or is subject to being confirmed, modified, or vacated by a court, and includes an award or decision resulting from private or confidential proceedings. To determine whether a particular award or decision is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

“Civil judgment” means—

(1) In paragraph (h) of this provision: A judgment or finding of a civil offense by any court of competent jurisdiction.

(2) In paragraph (s) of this provision: Any judgment or order entered by any Federal or State court in which the court determined that a labor law violation occurred, or enjoined or restrained a violation of labor law. It includes a judgment or order that is not final or is subject to appeal. To determine whether a particular judgment or order is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

“DOL Guidance” means the Department of Labor (DOL) Guidance entitled: “Guidance for Executive Order 13673, ‘Fair Pay and Safe Workplaces’”. The DOL Guidance was initially published in the Federal Register on August 25, 2016, and significant revisions will be published for public comment in the Federal Register. The DOL Guidance and subsequent versions can be obtained from [www.dol.gov/fairpayandsafeworkplaces](http://www.dol.gov/fairpayandsafeworkplaces).

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

“Enforcement agency” means any agency granted authority to enforce the Federal labor laws. It includes the enforcement components of DOL (Wage and Hour Division, Office of Federal Contract Compliance Programs, and Occupational Safety and Health Administration), the Equal Employment Opportunity Commission, the Occupational Safety and Health Review Commission, and the National Labor Relations Board. It also means a State agency designated to administer an OSHA-approved State Plan, but only to the extent that the State agency is acting in its capacity as administrator of such plan. It does not include other Federal agencies which, in their capacity as contracting agencies, conduct investigations of potential labor law violations. The enforcement agencies associated with each labor law under E.O. 13673 are—



- (1) Department of Labor Wage and Hour Division (WHD) for–
  - (i) The Fair Labor Standards Act;
  - (ii) The Migrant and Seasonal Agricultural Worker Protection Act;
  - (iii) [40 U.S.C. chapter 31](#), subchapter IV, formerly known as the Davis-Bacon Act;
  - (iv) [41 U.S.C. chapter 67](#), formerly known as the Service Contract Act;
  - (v) The Family and Medical Leave Act; and
  - (vi) E.O. 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors);
- (2) Department of Labor Occupational Safety and Health Administration (OSHA) for–
  - (i) The Occupational Safety and Health Act of 1970; and
  - (ii) OSHA-approved State Plans;
- (3) Department of Labor Office of Federal Contract Compliance Programs (OFCCP) for–
  - (i) Section 503 of the Rehabilitation Act of 1973;
  - (ii) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974; and
  - (iii) E.O. 11246 of September 24, 1965 (Equal Employment Opportunity);
- (4) National Labor Relations Board (NLRB) for the National Labor Relations Act; and
- (5) Equal Employment Opportunity Commission (EEOC) for–
  - (i) Title VII of the Civil Rights Act of 1964;
  - (ii) The Americans with Disabilities Act of 1990;
  - (iii) The Age Discrimination in Employment Act of 1967; and
  - (iv) Section 6(d) of the Fair Labor Standards Act (Equal Pay Act).

“Forced or indentured child labor” means all work or service—

(6) 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

(7) 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\(c\)](#).

“Labor compliance agreement” means an agreement entered into between a contractor or subcontractor and an enforcement agency to address appropriate remedial measures, compliance assistance, steps to resolve issues to increase compliance with the labor laws, or other related matters.

“Labor laws” means the following labor laws and E.O.s:

- (1) The Fair Labor Standards Act.
- (2) The Occupational Safety and Health Act (OSHA) of 1970.
- (3) The Migrant and Seasonal Agricultural Worker Protection Act.
- (4) The National Labor Relations Act.
- (5) [40 U.S.C. chapter 31](#), subchapter IV, formerly known as the Davis-Bacon Act.
- (6) [41 U.S.C. chapter 67](#), formerly known as the Service Contract Act.
- (7) E.O. 11246 of September 24, 1965 (Equal Employment Opportunity).

(8) Section 503 of the Rehabilitation Act of 1973.

(9) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.

(10) The Family and Medical Leave Act.

(11) Title VII of the Civil Rights Act of 1964.

(12) The Americans with Disabilities Act of 1990.

(13) The Age Discrimination in Employment Act of 1967.

(14) E.O. 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors).

(15) Equivalent State laws as defined in the DOL Guidance. (The only equivalent State laws implemented in the FAR are OSHA-approved State Plans, which can be found at [www.osha.gov/dcsp/osp/approved\\_state\\_plans.html](http://www.osha.gov/dcsp/osp/approved_state_plans.html)).

"Labor law decision" means an administrative merits determination, arbitral award or decision, or civil judgment, which resulted from a violation of one or more of the laws listed in the definition of "labor laws".

"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.

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

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

"Sensitive technology"—



(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—

- (i) To restrict the free flow of unbiased information in Iran; or
- (ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act ([50 U.S.C. 1702\(b\)\(3\)](#)).

“Service-disabled veteran-owned small business concern”—

(1) Means a small business concern—

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

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

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

“Small business concern” means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

“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.

“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.

“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.

“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.

**Note to paragraph (a):** By a court order issued on October 24, 2016, the following definitions in this paragraph (a) are enjoined indefinitely as of the date of the order: “Administrative merits determination”, “Arbitral award or decision”, paragraph (2) of “Civil judgment”, “DOL Guidance”, “Enforcement agency”, “Labor compliance agreement”, “Labor laws”, and “Labor law decision”. The enjoined definitions will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

(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 posted on the SAM website.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Affirmative Action Compliance. The offeror represents that—



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

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

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

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

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.” The terms “commercially available off-the-shelf (COTS) item” “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**

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

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

(g)(1) Buy American—Free Trade Agreements—Israeli Trade Act Certificate. (Applies only if the clause at FAR [52.225-3](#), Buy American—Free Trade Agreements—Israeli Trade Act, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “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, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product."

Other Foreign End Products:

**Line Item No. Country of Origin**


[List as necessary]

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

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

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

Canadian End Products:

**Line Item No.**


[List as necessary]

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

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

Canadian or Israeli End Products:

**Line Item No. Country of Origin**


[List as necessary]

(4) 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]

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

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

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

Other End Products:

**Line Item No. Country of Origin**


[List as necessary]

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



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

(1)  Are,  are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

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

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

(4)  Have,  have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 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 .]

(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.

(I) 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 database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (I)(3) through (I)(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: 30-0006093

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](mailto: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 \$3,500 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>).

(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) Representation regarding compliance with labor laws (Executive Order 13673). If the offeror is a joint venture that is not itself a separate legal entity, each concern participating in the joint venture shall separately comply with the requirements of this provision.

(1)(i) For solicitations issued on or after October 25, 2016 through April 24, 2017: The Offeror  does  does not anticipate submitting an offer with an estimated contract value of greater than \$50 million.

(ii) For solicitations issued after April 24, 2017: The Offeror  does  does not anticipate submitting an offer with an estimated contract value of greater than \$500,000.

(2) If the Offeror checked “does” in paragraph (s)(1)(i) or (ii) of this provision, the Offeror represents to the best of the Offeror’s knowledge and belief [Offeror to check appropriate block]:

(i) There has been no administrative merits determination, arbitral award or decision, or civil judgment for any labor law violation(s) rendered against the offeror (see definitions in paragraph (a) of this section) during the period beginning on October 25, 2015 to the date of the offer, or for three years preceding the date of the offer, whichever period is shorter; or

(ii) There has been an administrative merits determination, arbitral award or decision, or civil judgment for any labor law violation(s) rendered against the Offeror during the period beginning on October 25, 2015 to the date of the offer, or for three years preceding the date of the offer, whichever period is shorter.

(3)(i) If the box at paragraph (s)(2)(ii) of this provision is checked and the Contracting Officer has initiated a responsibility determination and has requested additional information, the Offeror shall provide—

(A) The following information for each disclosed labor law decision in the System for Award Management (SAM) at [www.sam.gov](http://www.sam.gov), unless the information is already current, accurate, and complete in SAM. This information will be publicly available in the Federal Awardee Performance and Integrity Information System (FAPIIS):

(1) The labor law violated.

(2) The case number, inspection number, charge number, docket number, or other unique identification number.

(3) The date rendered.

(4) The name of the court, arbitrator(s), agency, board, or commission that rendered the determination or decision;

(B) The administrative merits determination, arbitral award or decision, or civil judgment document, to the Contracting Officer, if the Contracting Officer requires it;

(C) In SAM, such additional information as the Offeror deems necessary to demonstrate its responsibility, including mitigating factors and remedial measures such as offeror actions taken to address the violations, labor compliance agreements, and other steps taken to achieve compliance with labor laws. Offerors may provide explanatory text and upload documents. This information will not be made public unless the contractor determines that it wants the information to be made public; and

(D) The information in paragraphs (s)(3)(i)(A) and (s)(3)(i)(C) of this provision to the Contracting Officer, if the Offeror meets an exception to SAM registration (see FAR [4.1102\(a\)](#)).

(ii)(A) The Contracting Officer will consider all information provided under (s)(3)(i) of this provision as part of making a responsibility determination.

(B) A representation that any labor law decision(s) were rendered against the Offeror will not necessarily result in withholding of an award under this solicitation. Failure of the Offeror to furnish a representation or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(C) The representation in paragraph (s)(2) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous representation, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation in accordance with the procedures set forth in FAR [12.403](#).

(4) The Offeror shall provide immediate written notice to the Contracting Officer if at any time prior to contract award the Offeror learns that its representation at paragraph (s)(2) of this provision is no longer accurate.

(5) The representation in paragraph (s)(2) of this provision will be public information in the Federal Awardee Performance and Integrity Information System (FAPIIS).

**Note to paragraph (s):** By a court order issued on October 24, 2016, this paragraph (s) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

(End of provision)

**[END OF ADDENDUM TO FAR 52.212-1]**