

IMA WORLD HEALTH TERMS AND CONDITIONS

1. CONFIDENTIALITY

Contractor acknowledges that any information obtained in performing this Contract regarding IMA WORLD HEALTH's operations, products, services, policies, systems, programs, procedures, employees, strategies, research, budgets, proposals, finances, plans, donor or business relationships, or any other aspect of its business that is not generally known to the public, is confidential and proprietary. During and after the Term, Contractor will hold such information confidential and will not:

(i) use such information for any purpose other than performance of this Contract; or (ii) disclose such information, directly or indirectly, to anyone outside IMA WORLD HEALTH, without in each instance the prior written consent of IMA WORLD HEALTH.

2. COMMUNICATIONS

IMA will be responsible for all communications with the Donor on issues related to the Project. The Contractor will not communicate directly with the Donor concerning the Project and will always channel communications regarding the Project through IMA.

3. TERMINATION

This Contract may be terminated by either Party at any time prior to or at the scheduled expiration date with or without cause by issuance of a thirty (30) days written notice. In the event of such termination, IMA World Health will pay the Contractor for the actual amount of services rendered up to the point of termination.

Termination for Default. IMA World Health may terminate the Agreement at any time, or from time to time, in whole or in part, by written notice effective on the later of the date of the notice or the effective date specified in the notice, if any one or more of the following should occur:

(I) Contractor becomes insolvent or makes a general assignment for the benefit of creditors;

(II) A petition under any bankruptcy act or similar statute is filed by or against Contractor;

(III) Contractor fails to make all products available within the time provided in quotations received in response to the Request for Quotations.

(IV) Contractor fails to perform an obligation under any provision of this Contract, or so fails to make progress as to substantially endanger performance of this Contract in accordance with this terms, provided that, Contractor fails to remedy any such condition within twenty (30) days from the receipt of a written notice from IMA World Health concerning the existence of the failure; or

(V) Contractor's financial condition becomes such as to endanger completion of performance (subject to the same provision as Contract paragraph (IV) above).

B. Termination for Convenience. IMA World Health shall have the unilateral right, at any time and from time to time, to terminate for convenience (regardless of whether the Contractor is in breach of any obligation under this Contract), effective on the later of the date of the notice or the effective date stated in the notice, all or any portion of the Contract, by the issuance of written notice to the Contractor. Upon receipt of the notice, Contractor shall immediately discontinue performance and shall comply with IMA World Health's instructions concerning completed and partially completed deliveries.

Termination for convenience shall not affect IMA World Health's obligations with respect to items delivered prior to such termination. For any products already manufactured and not delivered, both contractor and IMA World Health shall equally share any associated manufacturing costs where applicable.

4. PROHIBITION ON ADVERTISING

The Contractor shall not advertise or otherwise make public that it is furnishing services to IMA WORLD HEALTH without specific permission of IMA WORLD HEALTH in each instance.

5. INTELLECTUAL PROPERTY

Contractor warrants that the use or supply by IMA World Health of the goods sold under this Contract does not infringe any patent, design, trade-name or trade-mark. In addition, the Contractor shall, pursuant to this warranty, indemnify, defend and hold IMA World Health harmless from any actions or claims brought against IMA World Health pertaining to the alleged infringement of a patent, design, trade-name or trade-mark arising in connection with the goods sold under this Contract.

6. INDEMNIFICATION

Each Party shall indemnify, defend and hold harmless the other Party and any affiliated and controlling entities of such Party, and the directors, employees, officers, agents, sub-Contractors, licensors and suppliers from and against all third party liabilities, claims, suites, demands, actions, fines, damages, losses, costs and expenses (including reasonable attorney's fees) ("Claims") for injury to or death of any person or damage to or loss of improvements to real property or tangible personal property to the extent caused by or resulting from such Party's negligent acts or omissions or willful misconduct, except to the extent caused by the Indemnitee.

7. FORCE MAJEURE

A. If the Contractor fails to perform any of its obligations under this Contract due to a force majeure event, the Contractor shall, to such extent, not be liable to the IMA WORLD HEALTH for any excess costs directly arising from such failure to perform, and the availability for sampling schedule shall be deemed extended by the duration of that event, provided that the Contractor notifies the IMA WORLD HEALTH in writing, within ten (10) days after the beginning of the force majeure event, of the failure(s) and the cause(s) thereof. The term "force majeure event" is defined as a cause, not in existence on the Effective Date of the Contract that is beyond the control and without the fault or negligence of the Contractor, of a type whose occurrence was not reasonably foreseeable at the time the Contract was executed. Examples of force majeure events include, without limitation, the sovereign acts of governments, fires, floods, epidemics, revolutions, quarantine restrictions, freight embargoes, or prolonged unusually severe weather conditions. A delay by an approved assignee or sub-Contractor shall not constitute a force majeure event, unless the cause of the delay, if it had occurred directly to the Contractor, would have qualified as such an event.

B. Notwithstanding the occurrence of a force majeure event, the Contractor, unless otherwise directed by the IMA WORLD HEALTH in writing, shall continue to perform its obligations under this Contract to the maximum extent practicable. In addition, the Contractor shall seek, at no additional cost, all reasonable alternative means of performance not precluded by the force majeure event.

C. The occurrence or continuation of a force majeure event shall not, by itself, entitle the Contractor to any increase in the prices stated in this Contract.

8. PROHIBITION OF TERRORISM ACTIVITIES

- a) As a acceptance of this Contract, the Contractor hereby certifies that it has not provided and will not provide material support or resources to any individual or entity that it knows, or has reason to know, is an individual or entity that advocates, plans, sponsors, engages in, or has engaged in terrorist activity,

including but not limited to the individuals and entities listed in the Annex to Executive Order 13224 and other such individuals and entities that may be later designated by the United States under any of the following authorities: § 219 of the Immigration and Nationality Act, as amended (8 U.S.C. § 1189), the International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq.), the National Emergencies Act (50 U.S.C. § 1601 et seq.), or § 212(a)(3)(B) of the Immigration and Nationality Act, as amended by the USA Patriot Act of 2001, Pub. L. 107- 56 (October 26, 2001) (8 U.S.C. §1182). The Contractor further certifies that it will not provide material support or resources to any individual or entity that it knows, or has reason to know, is acting as an agent for any individual or entity that advocates, plans, sponsors, engages in, or has engaged in, terrorist activity, or that has been so designated, or will immediately cease such support if an entity is so designated after the date of the referenced Contract.

- b) For purposes of this certification, "material support and resources" includes currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.
- c) For purposes of this certification, "engage in terrorist activity" shall have the same meaning as in section 212(a)(3)(B)(iv) of the Immigration and Nationality Act, as amended (8 U.S.C. § 1182(a)(3)(B)(iv)). For purposes of this certification, "entity" means a partnership, association, corporation, or other organization, group, or subgroup.
- d) This certification is an express term and condition of the Contract and any violation of it shall be grounds for unilateral termination of the Contract by IMA WORLD HEALTH prior to the end of its term.

9. GOVERNING LAW

- a) The governing language of the Contract shall be English, and all notices and other communications relating or pursuant to the provisions of the Contract (including, without limitation, those in connection with issues, settlement of disputes) shall be in English.
- b) The Contract, its formation, and the facts and circumstances surrounding its making and performance, shall be interpreted in accordance with the following, listed in order of precedence: (1) the express terms and conditions of the Contract, and (2) the laws in effect in **Washington DC**.

10. SETTLEMENT OF DISPUTES

- a) **Amicable Settlement: Issues**

The Parties shall exert their best efforts, in good faith, to consult together to resolve all issues that may arise in connection with this Contract, its formation, or the surrounding facts and circumstances, in an equitable and mutually satisfactory manner. An issue that cannot be resolved in this way shall be treated as a disagreement under Article b) below (“Disagreement”).

b) Arbitration: Disagreements and Disputes

- i. In the event of a Disagreement arising under or relating to this Contract, its formation, or the surrounding facts and circumstances, either Party (the “Initiating Party”) may submit to the other Party (the “Receiving Party”) a written statement, specifically designated as a Notice of Disagreement, briefly describing the nature of the problem, the position of the Initiating Party regarding the problem, a narrative of the material facts and arguments in favor of the Initiating Party’s position, and a statement of the actions or other relief requested.
- ii. Within thirty (30) days after receipt of a Notice of Disagreement, the Receiving Party shall issue a written decision (“Decision”), designated as such, with supporting findings and reasons, and promptly communicate the same to the Initiating Party.
- iii. Within ninety (30) days after the issuance of a Decision, either Party may deem the disagreement to be a dispute (“Dispute”) and refer it to arbitration. All Disputes arising under or relating to this Contract, its formation, or the surrounding facts and circumstances, -- regardless of their legal nature, category, or amount -- shall be finally settled under the international arbitration rules of the American Arbitration Association (“AAA”), as then in effect, by one or more arbitrators appointed in accordance with the said rules and the provisions of this Article.
- iv. In any AAA arbitration, the Parties agree as follows: (1) each Party shall bear its own costs, and the AAA’s costs and fees shall be assessed as the arbitrator deems appropriate; (2) the place of arbitration shall be Washington DC., or any other location on which the Parties may subsequently agree; (3) the language of all proceedings, communications, and the award, shall be English; (4) the Parties shall mutually agree on a single arbitrator (failing which, either Party may request the AAA to make a designation); (5) unless otherwise agreed in writing by the Parties, the arbitrator shall decide the case solely upon submission of written documentation and statements, examining such materials and resolving the matter by issuance of a written decision which may include a monetary award (but not a penalty, however described), as appropriate.

- v. The procedures of this Article shall be the sole and exclusive method for resolution of all Disagreements and Disputes in connection with this Contract, its formation, and the facts and circumstances surrounding its making and performance. Parties specifically represent and warrant that an arbitration award issued pursuant to this Article will be enforceable under laws of Contractor's country. Any such award shall be final and binding on the Parties. Judgment may be entered upon the award in a court of competent jurisdiction, or application may be made to such court for a judicial acceptance of the award and an order for enforcement.
- vi. Notwithstanding the existence of a Disagreements or Dispute under this Sub Article, or of an issue pursuant to Sub Article 9.a) and b), the Parties shall, unless otherwise mutually agreed in writing by the Parties, continue to perform their obligations under the Contract.
- vii. If a judicial proceeding is brought (1) to resolve a Dispute subject to arbitration hereunder, or (2) to challenge the validity of an award rendered hereunder, each defendant in that proceeding, if it prevails, shall receive its costs, fees and reasonable attorneys' fees, including costs and fees on appeal. If a Party fails to comply with an award rendered hereunder, and the other Party is forced to seek enforcement of the award in court, each plaintiff in that proceeding, if it prevails, will be entitled to receive its costs, fees and reasonable attorneys' fees, including costs and fees on appeal.
- viii. The arbitral tribunal shall have no authority to award punitive damages.

11. ASSIGNMENT AND INSOLVENCY

- a) The Contractor shall not, except after obtaining the written consent of IMA WORLD HEALTH, assign, transfer, pledge or make other disposition of this Contract, or any part thereof, or any of the Contractor's rights or obligations under this Contract.
- b) Should the Contractor become insolvent or should control of the Contractor change by virtue of insolvency, IMA WORLD HEALTH may, without prejudice to any other rights or remedies, immediately terminate this Contract by giving the Contractor written notice of termination.

12. CHANGES & AMENDMENTS

Changes in the terms, conditions, or specifications stated in this Contract may be made only by Contract between the parties. Neither party may assign its rights or responsibilities under this Contract without the prior written consent of the other party.

13. RIGHTS OF IMA WORLD HEALTH

In case of failure by the Contractor to fulfill its obligations under the terms and conditions of this Contract or to make delivery of all or part of the goods/supplies by the agreed delivery date or dates, IMA WORLD HEALTH may, after giving the Contractor reasonable notice to perform and without prejudice to any other rights or remedies, exercise one or more of the following rights:

- a. Procure all or part of the services from other sources, in which event IMA WORLD HEALTH may hold the Contractor responsible for any excess cost occasioned thereby.
- b. Cancel this Contract without any liability for termination charges or any other liability of any kind to IMA WORLD HEALTH.

14. RELATIONSHIP

It is understood and agreed that the Contractor is furnishing the goods and/or services under this Contract as an independent entity, and nothing contained in this Contract will create any association, partnership, joint venture, employer-employee or agent-principle relationship. The relationship established by this Contract shall be solely between IMA and the Contractor; with the Contractor retaining full and complete liability for the actions or inactions of any subcontractors or agents.

15. INSURANCE

In addition to any other insurance coverage required by Law, the Contractor shall, at all times during the period of performance of this Contract, carry and maintain adequate insurance to cover any and all claims, losses or damages arising from activities conducted for the purposes of this Contract.

16. INSEPTION & ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this Contract. Acceptance of goods/deliverables is understood to take place either upon signature of a goods received note by an authorized individual, or upon written email confirmation sent by an authorized individual. IMA reserves the right to inspect or test any supplies or services that have been tendered for acceptance. IMA may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in Contract price. If repair/replacement or reperformance will not correct the defects or is not possible, IMA may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies

or services.

17. TRAFFICKING IN PERSONS/PROHIBITED LABOR

IMA has a zero tolerance policy regarding all forms of trafficking in persons, including but not limited to: Forced labor, sex trafficking, bonded labor, debt bondage among migrant laborers, involuntary domestic servitude, forced or indentured child labor, and child soldiers. Contractor and employees, lower-tier contractors and/or consultants of the Contractor shall not engage in any form of trafficking in persons during the period of performance of this Contract. Additional information can be obtained from IMA Contracting Officer.

The Contractor shall not use the labor of any person undergoing a sentence of imprisonment imposed in any court of the United States or its outlying territories in performance of this Contract nor shall the Contractor knowingly furnish to IMA any products mined, produced, or manufactured by such labor. Should any products provided be found to have been provided in violation of this clause the Contractor shall immediately refund any amounts paid by IMA for said Products.

18. ANTI-BRIBERY/KICKBACK/LOBBYING CERTIFICATION

By signing this Contract, the Contractor hereby certifies that the Contractor or any agents thereof:

a) have not and will not pay, offer to pay, or authorize the payment directly or indirectly of any monies or things of value to any government official or employee, or to any political party or candidate for political office for the purpose of influencing any act or decision of such official or of the Government.

b) are not and will not become an official or employee of the Government during the term of this Contract.

c) have not and will not solicit or attempt to solicit any additional personal compensation, credit, gift, gratuity, or thing of value directly or indirectly, from any IMA employee in order to obtain or retain business or direct business to any person.

d) have not and will not include, directly or indirectly, the amount of any bribes or kickbacks in the price of this Contract and will notify IMA immediately if any IMA staff member requests any form of gift, commission, or personal discount.

In no event shall IMA be obligated under this Contract to take any action or omit to

take any action which IMA believes in good faith would cause it to be in violation of any laws, including without limitation the U.S. Foreign Corrupt Practices Act.

19. OTHER COMPLIANCE

The Contractor shall comply with all applicable Federal, State, and local laws, executive orders, rules and regulations applicable to its performance under this Contract. Including, but not limited to:

- i Equal Opportunity,
- ii Affirmative
Action for Workers
with Disabilities,
- iii The Prohibition
of Segregated
Facilities,
- iv Service Contract Act of 1965
- v All applicable local labor laws
- vi The anti-boycott laws administered by the U.S. Commerce and Treasury
Departments
- vii Any proclamation, Executive order, or statute administered by OFAC, and OFAC's
implementing regulations at 31 CFR chapter V
- viii International Traffic in Arms Regulations, 22 C.F.R. Parts 120 *et seq.*; the Export
Administration Regulations, 15 C.F.R. Parts 730 *et seq.*; and the Foreign Asset
Control Regulations, 31 C.F.R. Chapter V
- ix All applicable standards, orders or regulations issued pursuant to the Clean Air Act
(42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended
(33 U.S.C. 1251 *et seq.*).
- x The Cargo Preference Act of 1954 (46 U.S.C. App. 1241(b))
- xi 49 U.S.C. 40118, the "Fly America Act"

Contractor shall be held responsible for ensuring that all subcontractor and/or agents performing work under this Contract comply with all applicable Federal, State, and local laws, executive orders, rules and regulations applicable to its performance under this Contract.

- xii. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).
- xiii. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)
 - i. Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)
 - ii. Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).

20. TAXES

As a registered non-profit corporation IMA is exempt from Sales and Value Added Taxes. The Contractor shall exclude any such taxes from the Contract price.

21. BANKRUPTCY

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to IMA immediately upon the initiation of any proceedings relating to that bankruptcy. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all Purchase Order(s) against which final payment has not been made. This obligation remains in effect until final payment under this Contract.

22. DELAYS

Products are to be used for time sensitive projects in the destination country. The Contractor must notify IMA World Health of any delays in production and/or transportation arrangements as soon as such delays are known.

Contractor shall provide biweekly production status report for all items. Once products are shipped, a separate shipment report must be provided as shipments are dispatched. Report must contain at minimum

- Purchase Order numbers
- Commercial invoice numbers
- Purchase Order costs
- Quantities
- Freight costs
- BOL/AWB/Container numbers

23. LIQUIDATED DAMAGES

Time is of the essence in performing this Contract. Failure by the Contractor to deliver the full quantity and quality required by the Contract on time will negatively impact the critical health-related overseas development program.

Accordingly, both Parties agree that, except with respect to periods in which force

majeure legitimately applies, IMA World Health may assess liquidated damages in the event that the Contractor fails to ship and deliver in compliance with quoted delivery times. The term “force majeure” is defined as a cause, not in existence on the Effective Date of this Contract that is beyond the control and without the fault or negligence of the Contractor or its sub-contractor, Contractor or agents, of a type whose occurrence was not reasonably foreseeable at the time the Contract was executed.

The amount of liquidated damages for each order will be **(2.5)** percent of the total value of the affected shipment per month not to exceed a total of ten **(10)** percent of the applicable Contract Price. Liquidated damages may be deducted by IMA World Health from any payments or other amounts (whether or not relating to the Contract) due to the Contractor whenever feasible. To the extent that deduction is not feasible, Contractor agrees to refund the amount determined in accordance with this Article promptly upon demand.

24. MONITORING & SITE INSPECTION

IMA reserves the right to inspect the services provided by the Contractor at any time and at any location it deems necessary to ensure full compliance with the terms and conditions of this Contract. The Contractor shall provide full and open access to all its facilities, vehicles, records/audit records and personnel involved in or related to the services to be provided under this Contract.

25. TITLE & RISK OF LOSS

Title and Risk of loss or damage to the Product(s) provided under this Contract shall remain with the Contractor until IMA or its designee, consignee, or agent receives delivery of and accepts the Product(s) at the destination specified in the Contract. Title and Risk of loss or damage shall pass to IMA only upon IMA’s final acceptance of the Product(s) or as specified in the Contract regardless of when or where IMA takes physical possession.

26. SURVIVAL

The rights and obligations pursuant to Section 1 (Confidentiality), Section 6 (Indemnification), Section 10 (Settlements and Disputes), any provision requiring the Contractor to maintain Records or provide access to such Records and any other provision of this Contract Agreement that is by its nature intended to survive the expiration or termination of the Contract Agreement shall survive the expiration or termination of the Contract Agreement.

27. SEVERABILITY

If any one or more provisions of this Contract Agreement shall be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be in any way affected or impaired thereby.

28. WARRANTY

(a) Contractor warrants that all the Items and Services furnished hereunder shall:

- (1) conform fully with all requirements of this Order, including any and all specifications, drawings, and performance requirements;
 - (2) conform to approved sample or samples, if any;
 - (3) unless detailed designs have been furnished by IMA, be fit for the use intended by IMA whether expressed or reasonably implied;
 - (4) be free from defects in material, workmanship, design and fabrication;
 - (5) be free from security interests, liens or encumbrances and of good title; and
 - (6) be performed with that degree of skill and judgment normally exercised by recognized professionals delivering or performing the same or similar Items or Services.
- In the event that an employee of Contractor should prove to be unsatisfactory during the first 80 billable hours of IMA's project, IMA may request the removal of Contractor's employee from performance of the Order with no billable charges incurred.

(b) Except for latent defects, Contractor guarantees all Services and Items, parts, components, and assemblies furnished hereunder against any defects in design, material, or workmanship for eighteen (18) months from the date of acceptance at IMA's location. In the case of latent defects, the IMA's rights to corrective action by Contractor shall commence upon IMA's discovery of the latent defect and notification of Contractor thereof.

(c) If, within the warranty period, any defect or failure appears, IMA shall have the right to take the following actions:

- (1) retain such defective Services or Item(s) and an equitable adjustment will be made in the Order price, or
- (2) reject such defective Services or Item(s) and require Contractor to promptly remove and repair or replace such defective Services or Item(s) at Contractor's sole expense (including shipping costs), with risk of loss and damage for the rejected, corrected or replacement Services and Item(s) while in transit borne by Contractor; or
- (3) correct or replace such defective Services and Item(s) with similar Services or Item(s) and recover the total cost (including shipping costs) thereof from Contractor. Services or Item(s) rejected shall be removed promptly by Contractor at its expense and its risk. Even if the Parties disagree whether or not Contractor has breached this warranty, Contractor shall promptly comply with IMA's directions to provide warranty work pending resolution of the disagreement.

(d) Upon discovery of any defect or failure within the warranty period provided hereby, the following conditions shall apply:

- (1) IMA shall furnish written notice to Contractor of the Services or Item(s) involved and set forth the nature of the defect(s) or failure(s) discovered;
- (2) within fifteen (15) days after receipt by Contractor of such notification, Contractor shall provide in writing to IMA the following information:

- (i) acknowledgment of the notification given by IMA of the defect or failure,
- (ii) the corrective action to be taken by Contractor to remedy the defect or failure,
- (iii) disposition instructions regarding the defective material or equipment,
- (iv) the date that the defective Services and Items will be repaired, corrected or replaced as applicable and redelivered to the appropriate destination as directed by IMA, or
- (v) with the advance approval of IMA, submit a proposed price reduction to this Order for IMA's consideration pursuant to (c) (1) above.
- (e) Neither approval by IMA of Contractor's design or material used nor IMA's inspection of same shall relieve Subcontractor from any obligations under the warranties set forth in this Article.
- (f) The word "Item(s)" as used herein includes parts, components, assemblies, materials, equipment, services and data required under this Order.
- (g) Any Services or Item(s) corrected or replaced pursuant to this Article shall be subject to all provisions of this Article to the same extent as Services and Item(s) initially delivered.
- (h) The aforesaid warranties shall survive acceptance and payment and shall run to IMA, its customers and the users of these Services and Item(s) and shall not be deemed to be the exclusive rights of IMA but shall be in addition to other rights of IMA under law, equity, and the terms of this Order.

29. CONTRACTOR PERFORMANCE STANDARDS

- (a) Contractor agrees to provide the services required hereunder in accordance with the requirements set forth in this Contract. Contractor undertakes to perform the services hereunder in accordance with the highest standards of professional and ethical competence and integrity in Contractor's industry and to ensure that employees assigned to perform any services under this subcontract will conduct themselves in a manner consistent therewith. The services will be rendered by Contractor: (1) in an efficient, safe, courteous, and businesslike manner; (2) in accordance with any specific instructions issued from time to time by IMA; and (3) to the extent consistent with items (1) and (2), as economically as sound business judgment warrants. Contractor shall provide the services of qualified personnel through all stages of this Contract. Contractor represents and warrants that it is in compliance with all the applicable laws of the United States and any other Jurisdiction in which the services shall be performed. Contractor shall perform the services as an independent Contractor with the general guidance of IMA. The Contractor's employees shall not act as agents or employees of IMA.
- (b) IMA reserves the right to request the replacement of Contractor personnel and may terminate the Contract due to nonperformance by the Contractor.

(c) IMA will use a variety of mechanisms to stay abreast of the Contractor's performance under the Contract, and of general progress toward attainment of the Contract objectives. These may include:

- 1) Business meetings between the Contract team, IMA and/or Donor
- 2) Feedback from key partners
- 3) Site visits by IMA personnel
- 4) Meetings to review and assess periodic work plans and progress reports
- 5) Reports

(d) Evaluation of the Contractor's overall performance under this subcontract shall be conducted by IMA. In addition to review of Contractor reports and deliverables, IMA shall review the quality of Contractor performance under this Contract on an annual basis. These reviews will be used to help determine the Contractor's suitability for future contracts. The Contractor will be evaluated for:

Quality and timeliness of work. Provides personnel who are technically qualified, who foster a positive working environment, who are effective on the assignment and contribute to a team effort to accomplish tasks. Delegated tasks are completed in a timely manner. Reports are clear, concise, accurate, well-structured, easily comprehended, submitted on-time and contain actionable recommendations.

Responsiveness to IMA's requests. Maintains open, direct, and responsive communications channels with IMA. Responses are rapid, helpful, accurate, and without undue delays.

Quality of financial management. Demonstrates cost control in meeting Contract requirements. Complies with Donor's cost principles in terms of allowability, allocability and reasonableness of costs.

Quality of Contract administration. Conducts contractually required tasks, such as personnel management, submittal of approval requests, and invoice submission, in a timely, compliant, and accurate manner. Recruitment efforts go beyond a simple review of CVs before submission to IMA to include first-hand contacts with candidates and performing reference checks.

30. WAIVER

The failure by IMA to invoke or enforce any provision of this Contract Agreement shall in no way be considered a waiver of such provisions or in any way affect the validity of this Contract Agreement.

31. ENTIRETY OF AGREEMENT

This Contract Agreement contains the entire agreement of the Parties related to the subject matter hereof and no representations, inducements, promises or agreements, oral or otherwise, between the Parties not included herein shall be of any force or effect.

ADDITIONAL CLAUSES
(APPLICABLE TO USG PROCUREMENTS
COMMERICAL GOODS AND SERVICES; REMOVE IF NOT USG FUNDED AND
INSERT NON-USG DONOR SPECIFIC TERMS IF APPLICABLE!)

52.252-1 -- Solicitation Provisions Incorporated by Reference.

As prescribed in [52.107](#)(a), insert the following provision:

Solicitation Provisions Incorporated by Reference (Feb 1998)

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):

http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm#P1941_275262

52.252-2 -- Clauses Incorporated by Reference.

As prescribed in [52.107](#)(b), insert the following clause:

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):

http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm#P1941_275262

Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

52.212-1	Instructions to Offerors	JAN 2017
52.212-4	Contract Terms and Conditions	JAN 2017
52.212-5	Contract Terms and Conditions Required to Implement Statues of Executive Order	NOV 2017

52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements	JAN 2017
52.209-10	Prohibition on Contracting with Inverted Domestic Corporations	NOV 2015
52.233-3	Protest After Award	AUG 1196
52.233-4	Applicable Law for Breach of Contract Claim	OCT 2004
52.203-6	Restrictions on Subcontractor Sales to the Government	SEP 2006
52-203-13	Contractor Code of Business Ethics and Conduct	OCT 2015
52.203-15	Whistleblower Protections under the American Recovery and Reinvestment Act of 2009	JUN 2010
52.204-10	Reporting Executive compensation and First-Tier Subcontract Awards	OCT 2016
52.204-14	Service Contract Reporting Requirements	OCT 2016
52.204-15	Service Contract Reporting Requirements for Indefinite-Delivery Contracts	OCT 2016
52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment	OCT 2015
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters	JUL 2013
52.222-19	Child Labor – Cooperation with Authorities and Remedies	OCT 2016
52.222-21	Prohibition of Segregated Facilities	APR 2015
52.222-26	Equal Opportunity	SEP 2016

52.222-26	Equal Opportunity for Veterans	OCT 2015
52.222-36	Equal Opportunity for Workers with Disabilities	JUL 2014
52.222-37	Employment Reports on Veterans	FEB 2016
52.222-36	Equal Opportunity for Workers with Disabilities	JUL 2014
52.222-40	Notification of Employee Rights Under the National Labor Relations Act (E.O.13496)	DEC 2010
52.222-50	Combating Trafficking in Persons	MAR 2015
52.222-50	Combating Trafficking in Persons – Alternate I	MAR 2015
52.222-56	Certification Regarding Trafficking in Persons Compliance Plan	MAR 2015
52.225-1	Buy American – Supplies	MAY 2014
52.225-2	Buy American – Certificate	MAY 2014
52.225-13	Restrictions on Certain Foreign Purchases	JUN 2008
52.232-29	Terms for Financing of Purchases of Commercial Items	FEB 2002
52.232-30	Installment Payments for Commercial Items	JAN 2017
52.232-33	Payment by Electronic Funds Transfer— System for Award Management	JUL 2013
52.232-34	Payment by Electronic Funds Transfer— Other than System for Award Management	JUL 2013
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels	JAN 2017
52.222-17	Nondisplacement of Qualified Workers	MAY 2014
52.222-41	Service Contract Labor Standards	MAY 2014
52.222-42	Statement of Equivalent Rates for Federal Hires	MAY 2014
52.222-55	Minimum Wages Under Executive Order	DEC 2015

52.222-62	Paid Sick Leave Under Executive Order 13706	JAN 2017
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52.204-21 Basic Safeguarding of Covered Contractor Information Systems (Jun 2016)

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

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

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

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

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

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

(b) Safeguarding requirements and procedures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52.209-7 Information Regarding Responsibility Matters (Jul 2013)

(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 proceeding at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52.209-12 Certification Regarding Tax Matters (Feb 2016)

(a) This provision implements section 523 of Division B of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts.

(b) If the Offeror is proposing a total contract price that will exceed \$5,000,000 (including option), the Offeror shall certify that, to the best of its knowledge and belief, it—

(1) Has [] filed all Federal tax returns required during the three years preceding the certification;

(2) Has not [] been convicted of a criminal offense under the Internal Revenue Code of 1986; and

(3) Has not [], more than 90 days prior to certification, been notified 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.

52.222-56 Certification Regarding Trafficking in Persons Compliance Plan (Mar 2015)

(a) The term “commercially available off-the-shelf (COTS) item,” is defined in the clause of this solicitation entitled “Combating Trafficking in Persons” (FAR clause 52.222-50).

(b) The apparent successful Offeror shall submit, prior to award, a certification, as specified in paragraph (c) of this provision, for the portion (if any) of the contract that—

(1) Is for supplies, other than commercially available off-the-shelf items, to be acquired outside the United States, or services to be performed outside the United States; and

(2) Has an estimated value that exceeds \$500,000.

(c) The certification shall state that—

(1) It has implemented a compliance plan to prevent any prohibited activities identified in paragraph (b) of the clause at 52.222-50, Combating Trafficking in Persons, and to monitor, detect, and terminate the contract with a subcontractor engaging in prohibited activities identified at paragraph (b) of the clause at 52.222-50, Combating Trafficking in Persons; and

(2) After having conducted due diligence, either—

(i) To the best of the Offeror's knowledge and belief, neither it nor any of its proposed agents, subcontractors, or their agents is engaged in any such activities; or

(ii) If abuses relating to any of the prohibited activities identified in 52.222-50(b) have been found, the Offeror or proposed subcontractor has taken the appropriate remedial and referral actions.

52.232-40 Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)

(a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.

(b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

(c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

Offeror Representations and Certifications -- Commercial Items (Nov2017)

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

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

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

“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).

“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.

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

“Veteran-owned small business concern” means a small business concern—

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

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

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

“Women-owned small business concern” means a small business concern --

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

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

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

(b)

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

(2) The offeror has completed the annual representations and certifications electronically via the SAM website accessed through <https://www.acquisition.gov>. After reviewing the SAM database information, the offeror verifies by submission of this offer that the representation 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 _____. *[Offeror to identify the applicable paragraphs at (c) through (u) of this provision that the offeror has completed for the purposes of this solicitation only, if any. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer. Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted electronically on SAM.]*

(c) Offerors must complete the following representations when the resulting contract is to 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.

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

(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.

(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

[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) or 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; and

(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 22.1503(b).]

(1) Listed End Product

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.

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

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

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

(3) Taxpayer Identification Number (TIN).

TIN: _____.

TIN has been applied for.

TIN is not required because:

Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government;

(4) Type of organization.

Sole proprietorship;

Partnership;

- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other _____.

(5) Common parent.

Offeror is not owned or controlled by a common parent:

Name and TIN of common parent:

Name _____

TIN _____

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

(n) Prohibition on Contracting with Inverted Domestic Corporations—

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

(2) *Representation.* The offeror represents that—

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

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

(o) Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.

(1) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(2) Representation and Certification. 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 section 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 and agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

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

(2) The Offeror represents that--

(i) It is is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely

manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

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

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

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

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

Predecessor CAGE code _____(or mark “Unknown”).

Predecessor legal name: _____.
(Do not use a “doing business as” name).

(s) Reserved.

(t) *Public Disclosure of Greenhouse Gas Emissions and Reduction Goals.* Applies in all solicitations that require offerors to register in SAM (52.212-1(k)).

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

(2) Representation. [*Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)*].

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

(ii) The Offeror (itself or through its immediate owner or highest-level owner) does, does not publicly disclose a quantitative greenhouse gas emissions reduction goal, i.e., make available on a publicly accessible

Web site a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

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

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

(u)

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

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

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