

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 subcontractor, 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

FAR Clause	Read as
a. Contractor	Contractor
b. Contract	Contract
c. Any reference to the Government, etc.	IMA
d. Subcontractor	Lower-tiered Subcontractor
e. Subcontract	Lower-tiered Subcontract

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 Statutes 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
52.203.16	Preventing Personal Conflicts of Interest	DEC 2011
52.203-17	Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights	APR 2014
52.203-18	Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements—Representation	JAN 2017
52.203-5	Covenant against Contingent Fees	MAY 2014
52.203-7	Anti-Kickback Procedures	MAY 2014

52.203-8	Cancellation, Recession, and Recovery of Funds for Illegal or Improper Activity	MAY 2014
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	MAY 2014
52.203-12	Limitation on Payments to Influence Certain Federal Transactions	OCT 2010
52.203-14	Display of Hotline Poster(s)	OCT 2015
52.204-15	Service Contract Reporting Requirements for Indefinite-Delivery Contracts	OCT 2016
52.204-16	Commercial and Government Entity Code Reporting	JUL 2016
52.204-18	Commercial and Government Entity Code Maintenance (Jul 2016)	JUL 2016
52.204-19	Incorporation by Reference of Representations and Certifications	DEC 2014
52.209-1	Qualification Requirements	FEB 1995
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
52.202-1	Definitions	
52.213-2	Invoices	APR 1984
52.213-3	Notice to Supplier	APR 1984
52.213-4	52.213-4 -- Terms and Conditions -- Simplified Acquisitions (Other Than Commercial Items).	NOV 2017
52.215-10	Price Reduction for Defective Certified Cost or Pricing Data	AUG 2011
52.215-11	Price Reduction for Defective Certified Cost or Pricing Data -- Modifications	Aug 2011

52.215-19	Notification of Ownership Changes (Oct 1997)	OCT 1997
52.215-20	Requirements for Certified Cost and Pricing Data and Data other Than Certified Cost or Pricing Data	OCT 2010
52.223-6	Drug-Free Workplace (May 2001)	MAY 2001
52.225-25	Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certification	OCT 2015
52.228-3	Worker's Compensation Insurance (DBA)	
52.229-3	Federal, State, and Local Taxes (Feb 2013)	FEB 2013
52.229-6	Taxes -- Foreign Fixed-Price Contracts	FEB 2013
52.232-1	Payments	APR 1984
52.232-8	Discount for Prompt Payment	FEB 2002
52.232-18	Availability of Funds	APR 1984
52.232-11	Extras	APR 1984
52.232-12	Advance Payments	MAY 2001
52.232-16	Progress Payments	APR 2012
52.232-39	Unenforceability of Unauthorized Obligations	JUN 2013
52.232-23	Assignment of Claims	MAY 2014
52.233-1	Disputes	MAY 2014
52.233-3	Protest After Award	AUG 1996
52.237-9	Waiver of Limitation on Severance Payment to Foreign Nationals	MAY 2014
52.242-13	Bankruptcy	JUL 1995
52.242-15	Stop Work-Orders	AUG 1989
52.243-1	Changes Fixed Price – Alternate I	AUG 1987
52.246-16	Responsibility for Supplies	APR 1984
52.246-25	Limitation of Liability - Services	FEB 1997
52.246-4	Inspection of Services – Fixed Price	AUG 1996
52.244-6	Subcontracts for Commercial Items	NOV 2017

52.246-20	Warranty of Services – 60 day notice prevails	MAY 2001
52.247-63	Preference for US-Flag Air Carriers	JUN 2003
52.247-65	F.o.b. Origin, Prepaid Freight -- Small Package Shipments	JAN 1991
52.249-1	Termination for Convenience of the Government (Fixed Price)	APR 1984
52.249-8	Default (Fixed Price Supply and Services)	APR 1984
52.252-4	Alterations in Contract	APR 1984

52.204-1 Approval of Contract.

APPROVAL OF CONTRACT (DEC 1989)

This contract is subject to the written approval of *[identify title of designated agency official here]* and shall not be binding until so approved.

52.204-8 -- Annual Representations and Certifications.

Annual Representations and Certifications (Nov 2017)

(a)

(1) The North American Industry classification System (NAICS) code for this acquisition is *[insert NAICS code]*.

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

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

(b)

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

(2) If the provision at 52.204-7 is not included in this solicitation, and the offeror is currently registered in the System for Award Management (SAM), and has completed the Representations and Certifications section of SAM electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the

corresponding individual representations and certification in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

☐ (i) Paragraph (d) applies.

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

(c)

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

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

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

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

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

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

(iii) 52.203-18, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements—Representation. This provision applies to all solicitations.

(iv) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the provision at 52.204-7, System for Award Management.

(v) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that—

(A) Are not set aside for small business concerns;

(B) Exceed the simplified acquisition threshold; and

(C) Are for contracts that will be performed in the United States or its outlying areas.

(vi) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation.

(vii) 52.209-5; Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(viii) 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.

(ix) 52.214-14, Place of Performance--Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

(x) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(xi) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

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

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

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

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

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

(xvi) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated

items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

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

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

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

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

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

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

(C) If the acquisition value is \$50,000 or more but is less than \$77,533, the provision with its Alternate II applies.

(D) If the acquisition value is \$79,507 or more but is less than \$100,000, the provision with its Alternate III applies.

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

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

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

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

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

[Contracting Officer check as appropriate.]

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

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

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

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

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

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

___ (vii) 52.227-6, Royalty Information.

___ (A) Basic.

___ (B) Alternate I.

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

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

FAR Clause	Title	Date	Change

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

Certification Regarding Responsibility Matters (Oct 2015)

(a)

(1) The Offeror certifies, to the best of its knowledge and belief, that --

(i) The Offeror and/or any of its Principals --

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

(B) 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 public (Federal, State, or local) 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 (if offeror checks "have", the offeror shall also see 52.209-7, if included in this solicitation); and

(C) Are ☐ are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision; and

(D) 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.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) 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.

(ii) 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.

(2) Examples.

(i) 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.

(ii) 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.

(iii) 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.

(iv) 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).

(ii) The Offeror has ☐ has not ☐, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principal," for the purposes of this certification, 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).

This Certification Concerns a Matter Within the Jurisdiction of an
Agency of the United States and the Making of a False, Fictitious, or
Fraudulent Certification May Render the Maker Subject to
Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law (Feb 2016)

(a) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L 113-235), and similar provisions, if contained in subsequent appropriations acts, the Government will not enter into a contract with any corporation that--

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

of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(2) 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.

(b) The Offeror represents that—

(1) 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

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

Limitation of Government Liability (Apr 1984)

(a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding _____ dollars.

(b) The maximum amount for which the Government shall be liable if this contract is terminated is _____ dollars.

Contract Definitization (Oct 2010)

(a) A _____ **FIXED PRICE** _____ definitive contract is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive contract that will include (1) all clauses required by the Federal Acquisition Regulation (FAR) on the date of execution of the letter contract, (2) all clauses required by law on the date of execution of the definitive contract, and (3) any other mutually agreeable clauses, terms, and conditions. The Contractor agrees to submit a _____ **FIXED PRICE** _____ proposal, including data other than certified cost or pricing data, and certified cost or pricing data, in accordance with FAR 15.408, Table 15-2, supporting its proposal.

(b) The schedule for definitizing this contract is *[insert target date for definitization of the contract and dates for submission of proposal, beginning of negotiations, and, if appropriate, submission of make-or-buy and subcontracting plans and certified cost or pricing data]*:

(c) If agreement on a definitive contract to supersede this letter contract is not reached by the target date in paragraph (b) of this section, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with Subpart 15.4 and Part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the Limitation of Government Liability clause.

(1) After the Contracting Officer's determination of price or fee, the contract shall be governed by --

(i) All clauses required by the FAR on the date of execution of this letter contract for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);

(ii) All clauses required by law as of the date of the Contracting Officer's determination; and

(iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with subparagraph (c)(1) of this section, all clauses, terms, and conditions included in this letter contract shall continue in effect, except those that by their nature apply only to a letter contract.

52.204-16 Commercial and Government Entity Code Reporting (Jul 2016)

(a) Definition. As used in this provision—

“Commercial and Government Entity (CAGE) code means--

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

(b) The Offeror shall enter its CAGE code in its offer with its name and address or otherwise include it prominently in its proposal. The CAGE code entered must be for that name and address. Enter “CAGE” before the number. The CAGE code is required prior to award.

(c) CAGE codes may be obtained via –

(1) Registration in the system for Award management (SAM) at www.sam.gov. If the Offeror is located in the United States or its outlying areas and does not already have a CAGE code assigned, the DLA Commercial and Government Entity (CAGE) Branch will assign a CAGE code as a part of the SAM registration process. SAM registrants located outside the United States and its outlying areas shall obtain a NCAGE code prior to registration in SAM (see paragraph (c)(3) of this provision).

(2) The DLA Commercial and Government Entity (CAGE) Branch. If registration in SAM is not required for the subject procurement, and the offeror does not otherwise register in SAM, an offeror located in the United States or its outlying areas may request that a CAGE code be assigned by submitting a request at <https://cage.dla.mil>.

(3) The appropriate country codification bureau. Entities located outside the United States and its outlying areas may obtain an NCAGE code by contacting the Codification Bureau in the foreign entity’s country if that country is a member of NATO or a sponsored nation. NCAGE codes may be obtained from the NSPA at <https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx> if the foreign entity’s country is not a member of NATO or a sponsored nation. Points of contact for codification bureaus, as well as additional information on obtaining NCAGE codes, are available at <http://www.nato.int/structur/AC/135/main/links/contacts.htm>.

(d) Additional guidance for establishing and maintaining CAGE codes is available at <https://www.cage.dla.mil>.

(e) When a CAGE Code is required for the immediate owner and/or the highest-level owner by 52.204-17 or 52.212-3(p), the Offeror shall obtain the respective CAGE Code from that entity to supply the CAGE Code to the Government.

(f) Do not delay submission of the offer pending receipt of a CAGE code.

52.204-18 Commercial and Government Entity Code Maintenance (Jul 2016)

(a) *Definition.* As used in this clause—

“Commercial and government Entity (CAGE) code” means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or Government entity, or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as the NATO CAGE (NCAGE) code.

(b) Contractors shall ensure that the CAGE code is maintained throughout the life of the contract. For contractors registered in the System for Award Management (SAM), the DLA Commercial and Government Entity (CAGE) Branch shall only modify data received from SAM in the CAGE master file if the contractor initiates those changes via update of its SAM registration. Contractors undergoing a novation or change-of-name agreement shall notify the contracting officer in accordance with subpart 42.12. The contractor shall communicate any change to the CAGE code to the contracting officer within 30 days after the change, so that a modification can be issued to update the CAGE code on the contract.

(c) Contractors located in the United States or its outlying areas that are not registered in SAM shall submit written change requests to the DLA Commercial and Government Entity (CAGE) Branch. Requests for changes shall be provided at <https://cage.dla.mil>. Change requests to the CAGE master file are accepted from the entity identified by the code.

(d) Contractors located outside the United States and its outlying areas that are not registered in SAM shall contact the appropriate National Codification Bureau (points of contact available at <http://www.nato.int/structur/AC/135/main/links/contacts.htm>) or NSPA at <https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx>.

(e) Additional guidance for maintaining CAGE codes is available at <https://cage.dla.mil>.

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.

52.207-6 Solicitation of Offers From Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts) (Oct 2016)

(a) *Definition.* "Small Business Teaming Arrangement," as used in this provision--

(1) Means an arrangement where--

(i) Two or more small business concerns have formed a joint venture; or

(ii) A small business offeror agrees with one or more other small business concerns to have them act as its subcontractors under a specified Government contract. A Small Business Teaming Arrangement between the offeror and its small business subcontractor(s) exists through a written agreement between the parties that--

(A) Is specifically referred to as a "Small Business Teaming Arrangement"; and

(B) Sets forth the different responsibilities, roles, and percentages (or other allocations) of work as it relates to the acquisition;

(2)

(i) For civilian agencies, may include two business concerns in a mentor-protege relationship when both the mentor and the protege are small or the protege is small and the concerns have received an exception to affiliation pursuant to 13 CFR 121.103(h)(3)(ii) or (iii).

(ii) For DoD, may include two business concerns in a mentor-protege relationship in the Department of Defense Pilot Mentor-Protege Program (see section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101-510; 10 U.S.C. 2302 note)) when both the mentor and the protege are small. There is no exception to joint venture size affiliation for offers received from teaming arrangements under the Department of Defense Pilot Mentor-Protege Program; and

(3) See 13 CFR 121.103(b)(9) regarding the exception to affiliation for offers received from Small Business Teaming Arrangements in the case of a solicitation of offers for a bundled contract with a reserve.

(b) The Government is soliciting and will consider offers from any responsible source, including responsible small business concerns and offers from Small Business Teaming Arrangements or joint ventures of small business concerns.

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 (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

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

(i) In a criminal proceeding, a conviction.

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

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

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

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

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

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

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIS 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.

52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)

(a) Definitions.

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

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

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

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

(d) Taxpayer Identification Number (TIN).

☐ TIN: _____

☐ TIN has been applied for.

☐ TIN is not required because:

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

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

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

(e) Type of organization.

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

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

☐ Foreign government;

☐ International organization per 26 CFR 1.6049-4;

☐ Other _____

(f) Common parent.

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

☐ Name and TIN of common parent:

Name _____

TIN _____

52.204-6 Unique Entity Identifier. (OCT 2016)

(a) Definitions. As used in this provision—

“Electronic Funds Transfer (EFT) indicator” means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see [subpart 32.11](#)) for the same entity.

“Unique entity identifier” means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.

(b) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “Unique Entity Identifier” followed by the unique entity identifier that identifies the Offeror’s name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

- (1) Company legal business name.
- (2) Tradestyle, doing business, or other name by which your entity is commonly recognized.
- (3) Company physical street address, city, state and Zip Code.
- (4) Company mailing address, city, state and Zip Code (if separate from physical).
- (5) Company telephone number.
- (6) Date the company was started.
- (7) Number of employees at your location.
- (8) Chief executive officer/key manager.
- (9) Line of business (industry).
- (10) Company headquarters name and address (reporting relationship within your entity).

ANTI-BRIBERY CERTIFICATION

The Contractor certifies that:

1. In carrying out its responsibilities under the Contract, the Contractor and its owners, directors, officers, employees or agents thereof, have not and will not pay, offer or

promise to pay, or authorize the payment directly or indirectly of any monies or anything of value to any government official or employee, or any political party or candidate for political office for the purpose of influencing any act or decision of such official or of the Government to obtain or retain business or direct business to any person (any such payment is a "Prohibited Payment");

2. No owner, partner, officer, director, or employee of the Contractor or of any affiliate company of Contractor is or will become an official or employee of the Government during the term of this Contract without prior written consent of IMA; and
3. No rights or obligations of, or services to be rendered by the Contractor under this Contract shall be assigned, transferred or contracted to any third party without the prior written consent of IMA.

(a) In the event IMA has reason to believe that a breach of the representations and warranties in Article 1 has occurred or may occur, IMA may withhold further delivery of products until such time as it has received confirmation to its satisfaction that no breach has occurred or will occur, IMA shall not be liable to the Contractor for any claim, losses or damages whatsoever related to its decision to withhold delivery under this provision.

(b) In the event that IMA has reason to believe that a breach of any of the representations and warranties of Article 1 has occurred or may occur, IMA shall have the right to audit the Contractor in order to satisfy itself that no breach has occurred. Upon request by the Contractor, IMA shall select an independent third party to conduct an audit of the Contractor in order to certify to IMA that no breach has occurred or will occur. The Contractor shall fully cooperate in any audit conducted by or on behalf of IMA.

(c) In the event that IMA concludes in its sole and absolute opinion that the Contractor has failed to meet its obligations under this Article, this Contract may be immediately terminated by IMA upon written notice to the Contractor. The Contractor shall indemnify and hold IMA harmless against any and all claims, losses or damages arising from or related to such breach or the cancellation of the Contract, or both.

(d) 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 of the Territory or any U.S. laws, including without limitation the Foreign Corrupt Practices Act.

Signed: _____

(Typed Name and Title)

(Date)

**THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS
DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT**

(a) Definition. "Commercially available off-the-shelf (COTS)" item, as used in this clause—

- (1) Means any item of supply (including construction material) that is—
 - (i) A commercial item (as defined in paragraph (1) of the definition in FAR 2.101);
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.
- (b) The Government suspends or debar Contractors to protect the Government's interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract, in excess of \$30,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.
- (c) The Contractor shall require each proposed subcontractor whose subcontract will exceed \$30,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.
- (d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the System for Award Management (SAM) Exclusions). The notice must include the following:
 - (1) The name of the subcontractor.
 - (2) The Contractor's knowledge of the reasons for the subcontractor being listed with an exclusion in SAM.
 - (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its being listed with an exclusion in SAM.
 - (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.
- (e) Subcontracts. Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that—
 - (1) Exceeds \$30,000 in value; and
 - (2) Is not a subcontract for commercially available off the-shelf items.

FAR 52.227-15 STATEMENT OF LIMITED RIGHTS DATA AND RESTRICTED COMPUTER SOFTWARE (DEC 2007)

(a) This solicitation sets forth the Government's known delivery requirements for data (as defined in the clause at 52.227-14, Rights in Data—General). Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause at 52.227-16, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data—General clause at 52.227-14 included in this contract. Under the latter clause, a Contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data instead. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Contractor's facility.

(b) By completing the remainder of this paragraph, the offeror represents that it has reviewed the requirements for the delivery of technical data or computer software and states [offeror check appropriate block]—

☐ (1) None of the data proposed for fulfilling the data delivery requirements qualifies as limited rights data or restricted computer software; or

☐ (2) Data proposed for fulfilling the data delivery requirements qualify as limited rights data or restricted computer software and are identified as follows:

(c) Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of the data should a contract be awarded to the offeror.

FAR 52.222-22 Previous Contracts and Compliance Reports. (FEB 1999)

The offeror represents that—

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

It ☐ has, ☐ has not filed all required compliance reports; and Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

CERTIFICATION REGARDING TERRORIST FINANCING IMPLEMENTING E.O. 13224 (AAPD 04- 14 Revision 2)

By signing this contract, the Contractor provides the certification set out below:

1. The Contractor, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts, as that term is defined in paragraph 3.

2. The following steps may enable the Contractor to comply with its obligations under paragraph 1:

a. Before providing any material support or resources to an individual or entity, the Contractor will verify that the individual or entity does not (i) appear on the master list of Specially Designated Nationals and Blocked Persons, which list is maintained by the U.S. Treasury's Office of Foreign Assets Control (OFAC) and is available online at OFAC's website :

<http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf>, or (ii) is not included in any supplementary information concerning prohibited individuals or entities that may be provided by USAID to the Contractor.

b. Before providing any material support or resources to an individual or entity, the Contractor also will verify that the individual or entity has not been designated by the United Nations Security (UNSC) sanctions committee established under UNSC Resolution 1267 (1999) (the "1267 Committee") [individuals and entities linked to the Taliban, Usama bin Laden, or the Al Qaida Organization]. To determine whether there has been a published designation of an individual or entity by the 1267 Committee, the Contractor should refer to the consolidated list available online at the Committee's website:

<http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.

c. Before providing any material support or resources to an individual or entity, the Contractor will consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it should be aware.

d. The Contractor also will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.

3. For Purposes of this Certification

a. "Material support and resources" means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials."

b. "Terrorist act" means - (i) an act prohibited pursuant to one of the 12 United Nations Conventions and Protocols related to terrorism (see UN terrorism conventions Internet site: <http://untreaty.un.org/English/Terrorism.asp>); or (ii) an act of premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; or (iii) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

c. "Entity" means a partnership, association, corporation, or other organization, group or subgroup.

d. References in this Certification to the provision of material support and resources shall not be deemed to include the furnishing of USAID funds or USAID-financed commodities to the ultimate beneficiaries of USAID assistance, such as recipients of food, medical care, micro- enterprise loans, shelter, etc., unless the Contractor has reason to believe that one or more of these beneficiaries commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

e. The Contractor's obligations under paragraph 1 are not applicable to the procurement of goods and/or services by the Contractor that are acquired in the ordinary course of business through contract or purchase, e.g., utilities, rents, office supplies, gasoline, etc., unless the Contractor has reason to believe that a vendor or supplier of such goods and services commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

This Certification is an express term and condition of any agreement issued, and any violation of it shall be grounds for unilateral termination of the agreement by USAID prior to the end of its term.

FOR [INSERT]	
Name: [INSERT] Title:	Date

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).

