Part IV – Representations and Instructions

Section K

Representations, Certifications, and Other Statements of Offerors
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K.1 FAR 52.204-8 Annual Representations and Certifications (Jan 2018)

(a)
(1) The North American Industry Classification System (NAICS) code for this acquisition is 561210 Facilities Support Services.

(2) The small business size standard is $38.5M.

(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 $80,317, the provision with its Alternate II applies.

(D) If the acquisition value is $80,317 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:

| X | (i) 52.204-17, Ownership or Control of Offeror. |
| X | (ii) 52.204-20, Predecessor of Offeror. |
| X | (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). |
| X | (vii) 52.227-6, Royalty Information. |
(A) Basic.

(B) Alternate I.

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

(ix) 970.5227-1, Rights in data-facilities. This solicitation sets forth the Government's known delivery requirements for data (as defined in the clause at 970.5227-1 Rights in Data--Facilities) and any data delivered under the resulting contract will be subject to this clause. The Offeror represents that it has reviewed the requirements for the delivery of technical data or computer software and states [Offeror check appropriate block] -

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

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

________________

________________

________________

Please note that 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.

(d) 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 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.

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<th>FAR Clause</th>
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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.
K.2 FAR 52.204-19 Incorporation by Reference of Representations and Certifications (Dec 2014)

The Contractor’s representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

K.3 FAR 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 proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

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

(1) The total value of all current, active contracts and grants, including all priced options; and

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

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

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

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

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

   (i) In a criminal proceeding, a conviction.

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

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

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

      (B) The payment of a reimbursement, restitution, or damages in excess of $100,000.
(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

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

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

K.4 FAR 52.230-1 Cost Accounting Standards Notices and Certification (DEVIATION)

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

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

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

I. Disclosure Statement—Cost Accounting Practices and Certification

(a) Any contract in excess of $2,000,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.

(b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror’s proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

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

(c) Check the appropriate box below:

[ ] (1) Certificate of Concurrent Submission of Disclosure Statement. The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows: (i) original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant
Federal agency official authorized to act in that capacity (Federal official), as applicable; and (ii) one copy to the cognizant Federal auditor.

(Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

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

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

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

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

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

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

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

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

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

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

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

III. Additional Cost Accounting Standards Applicable to Existing Contracts

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

[ ] Yes [ ] No

(End of provision)

[Deviation per Civilian Agency Acquisition Council (CAAC) Letter Number: 2018-03, Effective 01 July 2018, contracting officers shall use $2 million as the threshold for obtaining certified cost or pricing data, in lieu of the threshold of $750,000. This will remain in effect until incorporated into the FAR, or otherwise rescinded.]

K.5 FAR 52.230-7 Proposal Disclosure-Cost Accounting Practice Changes (Apr 2005)

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

[ ] yes [ ] no

If the Offeror checked “yes” above, the Offeror shall-

(1) Prepare the price proposal in response to the solicitation using the changed practice for the period of performance for which the practice will be used; and

(2) Submit a description of the changed cost accounting practice to the Contracting Officer and the Cognizant Federal Agency Official as pricing support for the proposal.
K.6 DEAR 952.204-73 Facility Clearance (Aug 2016)

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

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

(a) Use of Certificate Pertaining to Foreign Interests, Standard Form 328.

(1) The contract work anticipated by this solicitation will require access to classified information or special nuclear material. Such access will require a Facility Clearance for the Contractor’s organization and access authorizations (security clearances) for Contractor personnel working with the classified information or special nuclear material. To obtain a Facility Clearance the Contractor must submit the Standard Form 328, Certificate Pertaining to Foreign Interests, and all required supporting documents to form a complete Foreign Ownership, Control or Influence (FOCI) Package. The Contractor will submit the Foreign Ownership, Control or Influence (FOCI) information in the format directed by DOE. When completed the Contractor must print and sign one copy of the SF 328 and submit it to the Contracting Officer.

(2) Information submitted by the offeror in response to the Standard Form 328 will be used solely for the purposes of evaluating foreign ownership, control or influence and will be treated by DOE, to the extent permitted by law, as business or financial information submitted in confidence.

(3) Following submission of a Standard Form 328 and prior to contract award, the Contractor shall immediately submit to the Contracting Officer written notification of any changes in the extent and nature of FOCI which could affect the offeror’s answers to the questions in Standard Form 328. Following award of a contract, the Contractor must immediately submit to the cognizant security office written notification of any changes in the extent and nature of FOCI which could affect the offeror’s answers to the questions in Standard Form 328. Notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice must also be furnished concurrently to the cognizant security office.

(b) Definitions. (1) Foreign Interest means any of the following—

   (i) A foreign government, foreign government agency, or representative of a foreign government;

   (ii) Any form of business enterprise or legal entity organized, chartered or incorporated under the laws of any country other than the United States or its possessions and trust territories; and

   (iii) Any person who is not a citizen or national of the United States.

(2) Foreign Ownership, Control, or Influence (FOCI) means the situation where the degree of ownership, control, or influence over a Contractor by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information or special nuclear material may result.
(c) **Facility Clearance** means an administrative determination that a facility is eligible to access, produce, use or store classified information, or special nuclear material. A Facility Clearance is based upon a determination that satisfactory safeguards and security measures are carried out for the activities being performed at the facility. It is DOE policy that all Contractors or Subcontractors requiring access authorizations be processed for a Facility Clearance at the level appropriate to the activities being performed under the contract. Approval for a Facility Clearance shall be based upon—

1. A favorable foreign ownership, control, or influence (FOCI) determination based upon the Contractor's response to the ten questions in Standard Form 328 and any required, supporting data provided by the Contractor;

2. A contract or proposed contract containing the appropriate security clauses;

3. Approved safeguards and security plans, which describe protective measures appropriate to the activities being performed at the facility;

4. An established Reporting Identification Symbol code for the Nuclear Materials Management and Safeguards Reporting System if access to nuclear materials is involved;

5. A survey conducted no more than 6 months before the Facility Clearance date, with a composite facility rating of satisfactory, if the facility is to possess classified matter or special nuclear material at its location;

6. Appointment of a Facility Security Officer, who must possess or be in the process of obtaining an access authorization equivalent to the Facility Clearance; and, if applicable, appointment of a Materials Control and Accountability Representative; and

7. Access authorizations for key management personnel who will be determined on a case-by-case basis, and must possess or be in the process of obtaining access authorizations equivalent to the level of the Facility Clearance.

(d) A Facility Clearance is required prior to the award of a contract requiring access to classified information and the granting of any access authorizations under a contract. Prior to award of a contract, the DOE must determine that award of the contract to the offeror will not pose an undue risk to the common defense and security as a result of its access to classified information or special nuclear material in the performance of the contract. The Contracting Officer may require the offeror to submit such additional information as deemed pertinent to this determination.

(e) A Facility Clearance is required even for contracts that do not require the Contractor's corporate offices to receive, process, reproduce, store, transmit, or handle classified information or special nuclear material, but which require DOE access authorizations for the Contractor's employees to perform work at a DOE location. This type facility is identified as a non-possessing facility.

(f) Except as otherwise authorized in writing by the Contracting Officer, the provisions of any resulting contract must require that the Contractor insert provisions similar to the foregoing in all subcontracts and purchase orders. Any Subcontractors requiring access authorizations for access to classified information or special nuclear material shall be directed to provide responses to the questions in Standard Form 328, Certificate Pertaining to Foreign Interests, directly to the prime Contractor or the Contracting Officer for the prime contract.

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**Notice to Offerors—Contents Review (Please Review Before Submitting)**
Prior to submitting the Standard Form 328, required by paragraph (a)(1) of this clause, the offeror should review the FOCI submission to ensure that:

1. The Standard Form 328 has been signed and dated by an authorized official of the company;

2. If publicly owned, the Contractor’s most recent annual report, and its most recent proxy statement for its annual meeting of stockholders have been attached; or, if privately owned, the audited, consolidated financial information for the most recently closed accounting year has been attached;

3. A copy of the company's articles of incorporation and an attested copy of the company’s by-laws, or similar documents filed for the company's existence and management, and all amendments to those documents;

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

5. A summary FOCI data sheet.

K.7 Certification Regarding Facility Clearance – Foreign Ownership, Control or Influence Information

Please check, as appropriate:

[ ] Submitted Commercial and Government Entity code or facility code if cleared.

[ ] Documentation granting Offeror’s subcontractor(s) and/or joint venture facility clearance is attached.

[ ] Facility Clearance request documentation has been submitted via Foreign Ownership, Control, or Influence (FOCI) Electronic Submission Site at https://foci.anl.gov/ for Offeror, subcontractor(s) and/or joint venture if not currently cleared.

[ ] The Standard Form 328 has been signed and dated by an authorized official of the company.

[ ] If publicly owned, the Contractor’s most recent annual report, and its most recent proxy statement for its annual meeting of stockholders have been attached; or, if privately owned, the audited, consolidated financial information for the most recently closed accounting year has been attached.

[ ] A copy of the company’s articles of incorporation and an attested copy of the company’s by-laws, or similar documents filed for the company’s existence and management, and all amendments to those documents.

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

K.8 DOE-H-2079 Agreement Regarding Workplace Substance Abuse Programs at DOE Sites (Apr 2018)

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

(c) Failure of the offeror to agree to the condition of responsibility set forth in paragraph (b) of this provision, renders the offeror unqualified and ineligible for award.


(a) If the Offeror submits a proposal for a DOE Capital Asset Project-

(1) In the amount of $50 million or more; or

(2) Where the Offeror has a contract or other contracts in support of DOE Capital Asset Projects and the total contract values are $20 million or greater per contract for a total contract values of $50 million or more:

   (i) The Offeror shall provide documentation that an authorized government representative has determined that the proposed Earned Value Management System (EVMS) complies with the EVMS guidelines in the Electronic Industries Alliance Standard 748, Earned Value Management Systems (EIA-748) (current version at time of solicitation). The Government reserves the right to perform reviews of the EVMS when deemed necessary to verify compliance.

   (ii) If the Offeror proposes to use a system that has not been determined to be in compliance with the requirements of paragraph (a)(1) of this provision, the Offeror shall submit a comprehensive plan for compliance with the guidelines in EIA-748.

   (A) The plan shall:

      (1) Describe the EVMS the Offeror intends to use in performance of the contract, and how the proposed EVMS complies with the EVMS guidelines in EIA-748;

      (2) Distinguish between the Offeror’s existing management system and modifications proposed to meet the EVMS guidelines;

      (3) Describe the management system and its application in terms of the EVMS guidelines;

      (4) Describe the proposed procedure for administration of the EVMS guidelines as applied to subcontractors; and

      (5) Describe the process the Offeror will use to determine subcontractor compliance with EIA-748.

   (B) The Offeror shall provide information and assistance as required by the Contracting Officer to support review of the plan.

   (C) The Offeror’s EVMS plan must provide milestones that indicate when the Offeror anticipates that the EVMS will be compliant with the guidelines in EIA-748.

(b) If the Offeror submits a proposal in an amount less than $50 million and does not meet the condition described at (a)(2) above-
(1) The Offeror shall submit a written description of the management procedures it will use and maintain in the performance of any resultant contract to comply with the requirements of the EVMS clause of the contract. The description shall include-

(i) A matrix that correlates each guideline in EIA-748 (current version at time of solicitation) to the corresponding process in the Offeror’s written management procedures; and

(ii) The process the Offeror will use to determine subcontractor compliance with EIA-748.

(2) If the Offeror proposes to use an EVMS that has been determined by the CFA to be in compliance with the EVMS guidelines in EIA-748, the Offeror may submit a copy of the documentation of such determination instead of the written description required by paragraph (b)(1) of this provision.

(c) The Offeror shall identify the subcontractors (or the subcontracted effort if subcontractors have not been selected) to whom the EVMS requirements will apply. The Offeror and the Government shall agree to the subcontractors or the subcontracted effort selected for application of the EVMS requirements. The Offeror shall be responsible for ensuring that the selected subcontractors comply with the requirements of the Earned Value Management System clause of the contract.

K.10 Organizational Conflicts of Interest Disclosure

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

(b) Each Offeror is to check the appropriate block for each of the questions below. The questions apply equally to the (1) Offeror, (2) intended subcontractors at any tier, (3) consultants, (4) affiliates of the foregoing, and (5) chief executives and directors of any of the foregoing who will be involved in performing the contract, and, accordingly, that the term “Offeror” is defined to include all five types of considerations. The questions shall be completed by each Offeror or person identified.

(1) Does the Offeror depend upon industries or firms that could be affected by DOE actions related to the contract for a significant portion of its business, or have a relationship (financial, organizational, contractual or otherwise) with such industries or firms that could impair its objectivity or independence? Yes ☐ No ☐

(2) Would any unfair competitive advantage accrue to the Offeror in either its private or government business pursuits from access to:

(i) Data generated under the contract? Yes ☐ No ☐

(ii) Information concerning DOE plans and programs? Yes ☐ No ☐

(iii) Confidential and proprietary data of others? Yes ☐ No ☐

(3) Will any proposed subcontractor perform any self-evaluation or inspection of a service or product, or evaluation or inspection of another with whom a relationship exists which could impair objectivity, including evaluation or inspection of goods or services that complete commercially with the performer’s goods or services? Yes ☐ No ☐

(4) Will any of the Offeror’s chief executives, directors, or entities, which they own or represent, or any of the Offeror’s affiliates be involved in the performance of the contract? Yes ☐ No ☐
(i) If the Offeror checked “Yes” above in paragraph (b)(4), for involvement of the Offeror’s affiliates, will the involvement be performed as part of the Prime contract or a subcontract?

Prime Contract ☐ Subcontract ☐

(5) Do you have any current business arrangements that may conflict with your role as Offeror or subcontractor under this contract? Yes ☐ No ☐

(c) If the Offeror checked “Yes” to any of the above in paragraph (b), the Offeror shall provide the statement described in paragraph (d) from each entity or person affirmatively responding.

(d) The statement must contain the following:

(1) A statement of any past (within the past 12 months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the Performance Work Statement. For contractual interests, such statement must include the name, address, telephone number of the client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the Offeror who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to the Government or any other client (including a foreign government or person) respecting the same subject matter of this solicitation, or directly relating to such subject matter. The agency and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of the interest and any entity or entities involved in the financial relationship. For these and any other interests, enough such information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.

(2) A statement that no actual or potential conflict of interest or unfair competitive advantage exists with respect to the services required by the Performance Work Statement to be provided in connection with this solicitation.

(e) Failure of the Offeror to provide the required statement may result in the Offeror being determined ineligible for award. Misrepresentation or failure to report any fact may result in the assessment of penalties associated with false statements or such other provisions provided for by law or regulation.

K.11 Agreement to Use Non-Federal Support Personnel

DOE may employ non-federal evaluators (including employees of DOE contractors) to evaluate proposals submitted in response to Solicitation 89303318REM000007. All such non-federal evaluators are required to sign appropriate non-disclosure and conflict of interest statements prior to any such engagement. By submission of a signed offer under this solicitation, the Offeror consents to such review by non-federal evaluators.

K.12 Cost and Fee Proposal Certification

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

(a) It fully recognizes that such information was not warranted in any manner by the Government as to its accuracy or validity, and was for information only;

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

K.13 Solicitation Certification

By submitting its signed offer, the Offeror represents its understanding that Solicitation Number 89303318REM000007 represents the current and complete contracting requirements of the Government for the Hanford Mission Essential Services Contract. This Solicitation supersedes in its entirety any prior representations from the Government or attributed to the Government, including, but not necessarily limited to: any information formally provided by the Government prior to release of this Solicitation; remarks made by the Government during, or reported as a result of, industry one-on-one meetings; and any information or conjecture presented by the media, or any other source, on the Government’s requirements for this Solicitation.

K.14 Signature/Certification

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

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