

**PART IV – REPRESENTATIONS AND INSTRUCTIONS
SECTION K**

**REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF
OFFERORS OR RESPONDENTS**

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**SECTION K – REPRESENTATIONS, CERTIFICATIONS, AND OTHER
STATEMENTS OF OFFERORS OR QUOTES**

K.1 FAR 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (OCT 2018)

(a)

- (1) The North American Industry Classification System (NAICS) code for this acquisition is 561210.
- (2) The small business size standard is \$41.5M.
- (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

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- (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.

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- (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 solicitation 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.
 - (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.
- (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.

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- (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:
- (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 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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FAR Clause	Title	Date	Change

K.2 FAR 52.204-24 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2019)

(a) Definitions. As used in this provision –

Covered telecommunications equipment or services, Critical technology, and Substantial or essential component have the meanings provided in clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Prohibition. Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractors are not prohibited from providing –

- (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) Representation. The Offeror represents that –

It [] will, [] will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation.

(d) Disclosures. If the Offeror has responded affirmatively to the representation in paragraph (c) of this provision, the Offeror shall provide the following information as part of the offer –

- (1) All covered telecommunications equipment and services offered (include brand; model number, such as original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable);
- (2) Explanation of the proposed use of covered telecommunications equipment and services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) of this provision;
- (3) For services, the entity providing the covered telecommunications services (include entity name, unique entity identifier, and Commercial and Government Entity (CAGE) code, if known); and

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- (4) For equipment, the entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known).

**K.3 FAR 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS
(OCT 2018)**

(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;

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- (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, which can be accessed via <https://www.sam.gov> (see 52.204-7).

K.4 RESERVED

K.5 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.

Draft FOCI Mitigation Plan, if applicable, is attached.

Facility Clearance request documentation including the following information 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 and the original has been sent to the appropriate FOCI Office.

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.

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[] 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.6 PRICE 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 Contractor 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 Contractor's proposed price, upon which this contract award is based, was independently and fully derived from the Contractor's own estimating methods, that the Contractor assumes full and complete ownership of its proposed price, 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.7 ORGANIZATIONAL CONFLICTS OF INTEREST DISCLOSURE

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.

- (a) 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

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- (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 (a) (4), 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
- (b) If the Offeror checked "Yes" to any of the above in paragraph (a), the Offeror shall provide the statement described in paragraph (c) from each entity or person affirmatively responding.
- (c) 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.

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- (d) 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.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.

K.9 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 No. **89303319REM000057**. 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.10 SOLICITATION CERTIFICATION

By submitting its signed offer, the Offeror represents its understanding that Solicitation No. **89303319REM000057** represents the current and complete contracting requirements of the Government for **Paducah Infrastructure Support Services**. 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. Further, the Offeror represents that the electronic (including versions submitted via FedConnect and/or other electronic media) and hard copy submissions of the proposal are identical.

K.11 SIGNATURE/CERTIFICATION

By signing below, the Contractor certifies, under penalty of law, that the representations and certifications are accurate, current, and complete. The Contractor further certifies that

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it will notify the Contracting Officer of any changes to these representations and certifications. The representations and certification 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 Title 18, United States Code, Section 1001.

Signature of the Officer or Employee
Responsible for the Offer

Date of Execution

Typed Name and Title of the Officer or Employee
Responsible for the Offer

Name of Organization

Address City, State, ZIP

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