

## COVER PAGE

This is an emergency acquisition aligned to President Trump’s “Declaration of a National Emergency at the Southern Border of the United States,” and Executive Orders (EOs) issued on January 20, 2025, for “Securing Our Borders,” and “Protecting the American People Against Invasion. These orders direct the Department of Homeland Security (DHS) to, among other things, take all appropriate actions to detain, to the fullest extent permitted by law, aliens apprehended for violations of immigration law until their removal from the United States. Accordingly, U.S. Immigration and Customs Enforcement (ICE), within DHS, requires bringing an additional allotment of detention beds online nationwide to accommodate increased arrests in furtherance of the EOs.

This is a combined synopsis/solicitation for commercial products or commercial services prepared in accordance with the format in [subpart 12.6](#), as supplemented with additional information included in this notice. This announcement constitutes the only solicitation; proposals are being requested, and a written solicitation will not be issued. Solicitation number **70CDCR25R00000005** is issued as a Request for Proposals (RFP). The solicitation document and incorporated provisions and clauses are those in effect through Federal Acquisition Circular 2025-03. This requirement is being solicited as full and open competition. The government anticipates making multiple indefinite delivery/indefinite quantity (IDIQ) contract awards. The North American Industry Classification System (NAICS) code for this acquisition is 561612. The small business size standard is \$17M. Refer to Sections B and C for items and descriptions of requirements and objectives.

FAR provision at [52.212-1](#), Instructions to Offerors-Commercial Products and Commercial Services, applies to this acquisition. Offerors shall include a completed copy of the provision at [52.212-3](#), Offeror Representations and Certifications-Commercial Products and Commercial Services, with its offer. FAR clause at [52.212-4](#), Contract Terms and Conditions-Commercial Products and Commercial Services, applies to this acquisition and with its *Alternate 1* (Nov 2021). FAR clause at [52.212-5](#), Contract Terms and Conditions Required To Implement Statutes or Executive Orders-Commercial Products and Commercial Services, applies to this acquisition. Refer to Sections H and I for additional applicable provisions and clauses.

Proposal submissions are due by **2:00pm EST, Friday, April 4, 2025.**

**PART 1 – THE SCHEDULE**  
(SF 33)

**[END OF SECTION A]**

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**SECTION B:**  
**SUPPLIES OR SERVICES AND PRICES/COSTS**

**B.1 GENERAL**

The contractor shall provide all management, supervision, labor, and materials necessary to perform at least one or more of the services identified in the Statement of Objectives (SOO). This requirement is structured as multiple award Indefinite Delivery, Indefinite Quantity (IDIQ) contracts.

**B.2 CONTRACT PRICING**

Offerors shall provide pricing information in accordance with Section L.

**B.3 MINIMUM AND MAXIMUM QUANTITIES**

In accordance with FAR 16.504(a)(4)(ii), the minimum and maximum quantity the government will acquire under this contract is as follows:

*Minimum:* The minimum for each IDIQ contract award will be \$250.00.

*Maximum:* The total combined/shared ceiling for all IDIQ awards is \$45,000,000,000.00 (\$45B).

**B.4 USAGE, BILLING AND FUNDING**

Funding will be obligated at the task order level. Each task order will have an independent Contracting Officer's Representative (COR), funding, invoicing, and reporting requirements. Each task order's invoices shall be submitted separately using the respective task order CLINs and in accordance with the invoicing instructions provided in Section G.

Use of the Strategic Sourcing Vehicle (SSV) IDIQs by DHS Components and the Department of Defense is authorized.

- Fair opportunity procedures as defined by FAR 16.505(b)(1) will be followed for all task orders (TOs).
- COs within DoD and DHS Components are authorized to place TOs within the terms of the IDIQ after obtaining authorization from the ICE CO. Upon receiving authorization to use the ICE contract, authorized users are required to follow the ordering procedures from the parent IDIQ.
- TO COs may use invoicing procedures, and any contract numbering system to assign order numbers consistent with their individual agency procedures.
- There is no coordination imposed by the ICE CO, other than obtaining authorization from ICE (bullet 2). TO COs are empowered to place orders in accordance with the terms and conditions of the contract(s) guidelines, the FAR, and their own agency procedures.
- All issues must be resolved consistently with individual agency procedures and/or oversight.

**[END OF SECTION B]**

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**SECTION C:**  
DESCRIPTION/SPECIFICATIONS/STATEMENT OF OBJECTIVES

**C.1 DESCRIPTION**

In accordance with the Executive Orders referenced above, and related thereto, ICE and other entities have a requirement to immediately procure additional detention and related services nationwide.

**C.2 STATEMENT OF OBJECTIVES (SOO)**

The SOO is attached to this solicitation; see *Attachment 1 – Statement of Objectives (SOO)*.

**[END OF SECTION C]**

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**SECTION D:  
PACKING AND MARKING**

**D.1 PACKING AND MARKING**

No packing or marking requirements are applicable to this requirement.

**[END OF SECTION D]**

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**SECTION E:  
INSPECTION AND ACCEPTANCE**

**E.1 CLAUSES AND/OR PROVISIONS INCORPORATED BY REFERENCE**

The following clauses are incorporated by reference:

<b>Number</b>	<b>Title</b>	<b>Date</b>
52.246-4	Inspection of Services—Fixed-Price	Aug 1996
52.246-6	Inspection—Time-and-Material and Labor-Hour—Alternate I	May 2001

**E.2 INSPECTION AND ACCEPTANCE**

The government will conduct inspection and acceptance for all rendered services including deliverables.

**E.3 CONTRACTOR PERFORMANCE ASSESSMENT REPORTING SYSTEM (CPARS)**

In accordance with Federal Acquisition Regulation (FAR) Subpart 42.15, it is anticipated that past performance evaluations will be entered into CPARS, the governmentwide evaluation reporting tool for all past performance reports on contracts and orders. For more information regarding CPARS, please visit <http://www.cpars.gov/>.

**E.4 QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)**

Services will be evaluated in accordance with the metrics outlined in any QASP developed at the order level.

**[END OF SECTION E]**

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**SECTION F:  
DELIVERIES OR PERFORMANCE**

**F.1 FAR CLAUSES AND/OR PROVISIONS INCORPORATED BY REFERENCE**

The following clauses are incorporated by reference:

<b>Number</b>	<b>Title</b>	<b>Date</b>
52.242-15	Stop-Work Order	Aug 1989

**F.2 PERIOD OF PERFORMANCE**

This contract, when awarded, will have a 2-year period of performance. The anticipated period of performance will be **04/14/2025 through 04/13/2027**. The actual period of performance may change based on the progress of the source selection. The final period of performance will be incorporated upon award.

FAR clause 52.217-8 (Option to Extend Services) will be evaluated and included in the resulting IDIQ contract and task orders, allowing the government the option to extend for an additional 6 months at the rates established in the contract. TOs may be issued at any time during the ordering period.

**F.3 TASK ORDER PERIOD OF PERFORMANCE (POP)**

Task orders may be issued at any time during the IDIQ period of performance. Task orders may extend 12 months beyond the POP of the IDIQ.

**F.4 PLACE OF PERFORMANCE**

Place of performance requirements will be addressed at the task order level. Once determined through the source selection process, actual address(es) of the place of performance will be provided upon task order award.

**F.5 LIST OF DELIVERABLES**

Refer to Attachment 1 - SOO. Other deliverables will be prescribed in the Performance Work Statement at the order level.

**[END OF SECTION F]**

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**SECTION G:  
CONTRACT ADMINISTRATION DATA**

**G.1 CONTRACT ADMINISTRATION**

The administration of this requirement will require maximum coordination between the government and the contractor.

**G.2 CONTRACTING OFFICER'S REPRESENTATIVE (COR)**

The following individual is designated as the COR for this requirement and is authorized by the Contracting Officer (CO) to perform specific contract administration functions such as inspection and acceptance of services and other functions of a technical nature:

*TBD – COR contact information will be provided upon award.*

Note: The CO cannot authorize the COR or any other government representative to sign documents, such as contracts, contract modifications, etc., that require the signature of the CO.

**G.3 INVOICE INSTRUCTIONS**

Invoicing instructions will be provided at the time of award and at the task order level.

**[END OF SECTION G]**

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**SECTION H:  
SPECIAL CONTRACT REQUIREMENTS**

**H.1 PERFORMANCE-BASED SERVICES CONTRACTING (PBSC)**

Through the direction of the Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP), performance-based contracting techniques will be applied to TOs issued under this contract to the “maximum extent practicable.” For information about PBSC, refer to OFPP’s Best Practices Handbook located at [www.whitehouse.gov/omb](http://www.whitehouse.gov/omb).

*Performance based contracts for service must include:*

- (a) Performance requirements that define the work in measurable, mission-related terms;
- (b) Performance standards (i.e., quality, quantity, timeliness) tied to the performance requirements; and
- (c) A Government QASP or other suitable plan that describes how the Contractor’s performance will be measured against the performance standards or service level agreements (SLAs).

**H.2 DISCLOSURE OF INFORMATION – OFFICIAL USE ONLY**

Each officer or employee of the contractor or subcontractor at any tier to whom “*Official Use Only*” information may be made available or disclosed, shall be notified in writing by the contractor that “*Official Use Only*” information disclosed to that individual can be used only for a purpose, and to the extent authorized herein, and that further disclosure of any such “*Official Use Only*” information, by any means, for a purpose or to an extent unauthorized herein, may subject the offender to criminal sanctions imposed by 18 U.S.C. Sections 641 and 3571. Section 641 of 18 U.S.C. provides, in pertinent part, that whoever knowingly converts to his use or the use of another, or without authority sells, conveys, or disposes of any record of the United States or whoever receives the same with the intent to convert it to his use or gain, knowing it to have been converted, shall be guilty of a crime punishable by a fine or imprisoned up to 10 years, or both.

**H.3 CONTRACTOR’S INSURANCE**

The contractor shall maintain insurance in an amount not less than \$3,000,000 to protect the contractor from claims under workman compensation acts and from any other claims for damages for personal injury, including death which may arise from operations under this contract whether such operations by the contractor itself or by any subcontractor or anyone directly or indirectly employed by either business entity. The contractor shall maintain general liability insurance: bodily injury liability coverage written on a comprehensive form of policy of at least \$500,000 per occurrence is required.

Additionally, an automobile liability insurance policy providing for bodily injury and property damage liability covering automobiles operated in the United States (U.S.) shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property coverage. Certificates of such insurance shall be subject to the approval of the CO for adequacy of protection. All insurance certificates required under this contract

shall provide 30 days' notice to the government of any contemplated cancellation. The contractor shall provide that all staff having access to non-citizen monies and valuables are bonded in an amount sufficient to ensure reimbursement to the non-citizen by the contractor in case of loss.

#### **H.4 SPECIAL CLAUSE INFORMATION TECHNOLOGY SECURITY AWARENESS TRAINING (JULY 2023)**

(a) Applicability. This clause applies to the Contractor, its subcontractors, and Contractor employees (hereafter referred to collectively as "Contractor"). The Contractor shall insert the substance of this clause in all subcontracts.

(b) Security Training Requirements.

(1) All users of Federal information systems are required by Title 5, Code of Federal Regulations, Part 930.301, Subpart C, as amended, to be exposed to security awareness materials annually or whenever system security changes occur, or when the user's responsibilities change. The Department of Homeland Security (DHS) requires that Contractor employees take an annual Information Technology Security Awareness Training course before accessing sensitive information under the contract. Unless otherwise specified, the training shall be completed within thirty (30) days of contract award and be completed on an annual basis thereafter not later than October 31st of each year. Any new Contractor employees assigned to the contract shall complete the training before accessing sensitive information under the contract. The training is accessible at <http://www.dhs.gov/dhs-security-and-training-requirements-contractors>. The Contractor shall maintain copies of training certificates for all Contractor and subcontractor employees as a record of compliance. Unless otherwise specified, initial training certificates for each Contractor and subcontractor employee shall be provided to the Contracting Officer's Representative (COR) not later than thirty (30) days after contract award. Subsequent training certificates to satisfy the annual training requirement shall be submitted to the COR via e-mail notification not later than October 31st of each year. The e-mail notification shall state the required training has been completed for all Contractor and subcontractor employees.

(2) The DHS Rules of Behavior apply to every DHS employee, Contractor and subcontractor that will have access to DHS systems and sensitive information. The DHS Rules of Behavior shall be signed before accessing DHS systems and sensitive information. The DHS Rules of Behavior is a document that informs users of their responsibilities when accessing DHS systems and holds users accountable for actions taken while accessing DHS systems and using DHS Information Technology resources capable of inputting, storing, processing, outputting, and/or transmitting sensitive information. The DHS Rules of Behavior is accessible at <http://www.dhs.gov/dhs-security-and-training-requirements-contractors>. Unless otherwise specified, the DHS Rules of Behavior shall be signed within thirty (30) days of contract award. Any new Contractor employees assigned to the contract shall also sign the DHS Rules of Behavior before accessing DHS systems and sensitive information. The Contractor shall maintain signed copies of the DHS Rules of Behavior for all Contractor and subcontractor employees as a record of compliance. Unless otherwise specified, the Contractor shall e-mail copies of the signed DHS Rules of Behavior to the COR not later than thirty (30) days after contract award for each employee. The DHS Rules of Behavior will be reviewed annually, and the COR will provide notification when a review is

required.

## **H.5 COMPLIANCE WITH DHS SECURITY POLICY TERMS AND CONDITIONS**

All hardware, software, and services provided under this task order must be compliant with DHS 4300A DHS Sensitive System Policy and DHS 4300A Sensitive Systems Handbook.

## **H.6 SECURITY REVIEW TERMS AND CONDITIONS**

The Government may elect to conduct periodic reviews to ensure that the security requirements contained in this contract are being implemented and enforced. The Contractor shall afford ICE, including the organization of ICE Office of the Chief Information Officer, the Office of the Inspector General, authorized Contracting Officer Technical Representative (COTR), and other government oversight organizations, access to the Contractor's facilities, installations, operations, documentation, databases and personnel used in the performance of this contract. The Contractor will contact ICE Chief Information Security Officer to coordinate and participate in the review and inspection activity of government oversight organizations external to ICE. Access shall be provided to the extent necessary for the government to carry out a program of inspection, investigation, and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of ICE data or the function of computer system operated on behalf of ICE, and to preserve evidence of computer crime.

## **H.7 PRIVACY EXPECTATIONS**

Government contractor employees do not have a right, nor should they have an expectation, of privacy while using Government provided devices at any time, including accessing the Internet and using e-mail and voice communications. To the extent that employees wish that their private activities remain private, they should avoid using the Government provided device for limited personal use. By acceptance of the government provided device, employees imply their consent to disclosing and/or monitoring of device usage, including the contents of any files or information maintained or passed -through that device.

## **H.8 CONTRACTOR IT SECURITY ACCREDITATION**

Within 6 months after contract, the contractor shall submit written proof of IT Security accreditation to DHS for approval by DHS CO. Accreditation will proceed according to the criteria of DHS Sensitive System Policy Publication, 4300A (most current version) or any replacement publication, which the CO will provide upon request. This accreditation will include a final security plan, risk assessment, security test and evaluation, and disaster recovery plan/continuity of operations plan. This accreditation, when accepted by the CO, shall be incorporated into the contract as a compliance document. The contractor shall comply with the approved accreditation documentation.

## **H.9 CYBERSECURITY, CLAUSES AND RELATED LANGUAGE**

In accordance with ITAR 4.5.3.1 – Compliance with DHS Security Policy Terms and Conditions. Compliance with DHS Security Policy Terms and Conditions:

All hardware, software, and services provided under this task order must be compliant with *DHS 4300A DHS Sensitive System Program 4300A version 13.3 Feb. 13, 2023 and attachments.*

In accordance with ITAR 4.5.3.4 and ITAR 4.5.4.4 – Security Review Security Review Terms and Conditions

The Government may elect to conduct periodic reviews to ensure that the security requirements contained in this contract are being implemented and enforced. The Contractor shall afford ICE, including the organization of ICE Office of the Chief Information Officer, the Office of the Inspector General, authorized Contracting Officer Representative (COR), and other government oversight organizations, access to the Contractor's facilities, installations, operations, documentation, databases and personnel used in the performance of this contract. The Contractor will contact ICE Chief Information Security Officer to coordinate and participate in the review and inspection activity of government oversight organizations external to ICE. Access shall be provided to the extent necessary for the government to carry out a program of inspection, investigation, and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of ICE data or the function of computer system operated on behalf of ICE, and to preserve evidence of computer crime.

In accordance with ITAR 4.5.3.7 – Supply Chain Risk Management Supply Chain Risk Management Terms and Conditions

The Contractors supplying the Government hardware and software shall provide the manufacturer's name, address, state and/or domain of registration, and the Data Universal Numbering System (DUNS) number for all components comprising the hardware and software. If subcontractors or subcomponents are used, the name, address, state, and/or domain of registration and DUNs number of those suppliers must also be provided.

Subcontractors are subject to the same general requirements and standards as prime contractors. Contractors employing subcontractors shall perform due diligence to ensure that these standards are met.

The Government shall be notified when a new contractor/subcontractor/service provider is introduced to the supply chain, or when suppliers of parts or subcomponents are changed. Contractors shall provide, implement, and maintain a Supply Chain Risk Management Plan that addresses internal and external practices and controls employed to minimize the risk posed by counterfeits and vulnerabilities in systems, components, and software.

The Plan shall describe the processes and procedures that will be followed to ensure appropriate supply chain protection of information system resources developed, processed, or used under this contract.

The Supply Chain Risk Management Plan shall address the following elements:

How risks from the supply chain will be identified;

What processes and security measures will be adopted to manage these risks to the system or system components; and

How the risks and associated security measures will be updated and monitored.

The Supply Chain Risk Management Plan shall remain current through the life of the contract or period of performance. The Supply Chain Risk Management Plan shall be provided to the Contracting Officer Representative (COR/CO) 30 days post award.

The Contractor acknowledges the Government's requirement to assess the Contractors Supply Chain Risk posture. The Contractor understands and agrees that the Government retains the right to cancel or terminate the contract, if the Government determines that continuing the contract presents a risk to national security.

The Contractor shall disclose, and the Government will consider, relevant industry standard certifications, recognitions and awards, and acknowledgments.

The Contractor shall provide only new equipment unless otherwise expressly approved, in writing, by the CO. Contractors shall provide only Original Equipment Manufacturer (OEM) parts to the Government. In the event that a shipped OEM part fails, all replacement parts must be OEM parts.

The Contractor shall be excused from using new OEM (i.e. "grey market, "previously used) components only with formal Government approval. Such components shall be procured from their original source and have them shipped only from manufacturers authorized shipment points.

For software products, the contractor shall provide all OEM software updates to correct defects for the life of the product (i.e., until the "end of life"). Software updates and patches must be made available to the government for all products procured under this contract.

Contractors shall employ formal and accountable transit, storage, and delivery procedures (i.e., the possession of the component is documented at all times from initial shipping point to final destination, and every transfer of the component from one custodian to another is fully documented and accountable) for all shipments to fulfill contract obligations with the Government.

All records pertaining to the transit, storage, and delivery will be maintained and available for inspection for the lessor of the term of the contract, the period of performance, or one calendar year from the date the activity occurred.

These records must be readily available for inspection by any agent designated by the U.S. Government as having the authority to examine them.

This transit process shall minimize the number of times en route components undergo a change of custody and make use of tamper-proof or tamper-evident packaging for all shipments. The supplier, at the Government's request, shall be able to provide shipping status at any time during transit.

The Contractor is fully liable for all damage, deterioration, or losses incurred during shipping and

handling, unless the damage, deterioration, or loss is due to the Government. The Contractor shall provide a packing slip which shall accompany each container or package with the information identifying the contract number, the order number, a description of the hardware/software enclosed (Manufacturer name, model number, serial number), and the customer point of contact. The contractor shall send a shipping notification to the intended government recipient or contracting officer. This shipping notification shall be sent electronically and will state the contract number, the order number, a description of the hardware/software being ship (manufacturer name, model number, serial number), initial shipper, shipping date and identifying (tracking) number.

#### **H.10 OPEN SEASON ON-RAMPING**

ICE will determine whether it would be in the government's best interest to initiate an open season to add additional contractors to this strategic sourcing vehicle.

1. An open season notice is published on SAM.gov in accordance with FAR Part 5, Publicizing Contract Action
2. An open season solicitation is issued under current Federal procurement law
3. The solicitation identifies the total anticipated number of new contracts that ICE intends to award
4. Any Offeror that meets the eligibility requirements set forth in the open season solicitation may submit a proposal in response to the solicitation
5. The award decision under the open season solicitation is based upon substantially the same evaluation factors as the original solicitation
6. An Offeror's proposal must meet all of the Acceptability Pass/Fail Criteria of the original solicitation
7. The terms and conditions of any resulting awards are materially identical to the existing version of the SSV,
8. The period of performance term for any new awards is coterminous with the existing term for all other Contractors

Immediately upon on-ramping, the Contractor is eligible to submit a proposal in response

#### **H.11 OFF-RAMPING**

1. Permitting the Contractor's IDIQ contract term to expire instead of exercising any applicable option.
2. After a contractor is placed in Dormant Status and the Contractor has completed all previously awarded task orders.
3. Debarment, Suspension, or Ineligibility as defined in FAR Subpart 9.4.
4. Termination as defined in FAR Part 49
5. Contractors who fail to meet the standards of performance, deliverables, or compliances
6. Taking any other action which may be permitted under the SSV terms and conditions

**[END OF SECTION H]**

## PART II – CONTRACT CLAUSES

### SECTION I: CONTRACT CLAUSES

#### I.1 – CLAUSES AND/OR PROVISIONS INCORPORATED BY REFERENCE

The following clauses and/or provisions are incorporated by reference.

Number	Title	Date
52.202-1	Definitions	Jun 2020
52.203-3	Gratuities	Apr 1984
52.203-12	Limitation on Payments to Influence Certain Federal Transactions	Jun 2020
52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper	May 2011
52.204-13	System for Award Management Maintenance	Oct 2018
52.204-18	Commercial and Government Entity Code Maintenance	Aug 2020
52.204-19	Incorporation by Reference of Representations and Certifications	Dec 2014
52.204-21	Basic Safeguarding of Covered Contractor Information Systems	Nov 2021
52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities	Nov 2021
52.204-25	Prohibition of Contracting for Certain Telecommunications and Video Surveillance Services or Equipment	Nov 2021
52.209-10	Prohibition on Contracting with Inverted Domestic Corporations	Nov 2015
52.212-4	Contract Terms and Conditions—Commercial Products and Commercial Services	Nov 2023
52.212-4 Alternate 1	Contract Terms and Conditions—Commercial Products and Commercial Services	Nov 2021
52.215-8	Order of Precedence—Uniform Contract Format	Oct 1997
52.216-7	Allowable Cost and Payment	Aug 2020
52.216-18	Ordering	Aug 2020
52.216-19	Order Limitations	Oct 1995
52.216-22	Indefinite Quantity	Oct 1995
52.216-31	T&M/LH Proposal Requirements—Commercial Acquisition	Nov 2021
52.219-16	Liquidated Damages - Subcontracting Plan	Sep 2021
52.223-3	Hazardous Material Identification & Material Safety Data—Alternate I	Jul 1995
52.224-1	Privacy Act Notification	Apr 1984
52.224-2	Privacy Act	Apr 1984
52.227-1	Authorization and Consent	Jun 2020

52.227-3	Patent Indemnity	Jun 2020
52.227-11	Patent Rights—Ownership by the Contractor	May 2014
52.227-14	Rights in Data—General	May 2014
52.227-16	Additional Data Requirements	Jun 1987
52.232-1	Payments	Apr 1984
52.232-7	Payments under Time-and-Materials and Labor-Hour Contracts	Nov 2021
52.232-8	Discounts for Prompt Payment	Feb 2002
52.232-9	Limitation on Withholding of Payments	Apr 1984
52.232-11	Extras	Apr 1984
52.232-18	Availability of Funds	Apr 1984
52.232-23	Assignment of Claims	May 2014
52.232-25	Prompt Payment	Jan 2017
52.232-39	Unenforceability of Unauthorized Obligations	Jun 2013
52.232-40	Providing Accelerated Payments to Small Business Subcontractors	Mar 2023
52.233-1	Disputes—Alternate 1	May 2014
52.233-3	Protest after Award	Aug 1996
52.233-4	Applicable Law for Breach of Contract Claim	Oct 2004
52.237-3	Continuity of Services	Jan 1991
52.242-13	Bankruptcy	Jul 1995
52.244-2	Subcontracts	Jun 2020
52.249-2	Termination for Convenience of the Government (Fixed-Price)	Apr 2012
52.249-8	Default (Fixed-Price Supply and Service)	Apr 1984
3052.222-70	Strikes or Picketing Affecting Timely Completion of the Contract Work	Dec 2003
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement	Jun 2020

## I.2 CLAUSES AND/OR PROVISIONS INCORPORATED BY FULL TEXT

The following clauses and/or provisions are incorporated by full text.

### **FAR 52.204-23 PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB COVERED ENTITIES (DEVIATION 20-05) (JUL 2024)**

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

*Kaspersky Lab covered article* means any hardware, software, or service that—

- (1) Is developed or provided by a Kaspersky Lab covered entity;
- (2) Includes any hardware, software, or service developed or provided in whole or in part by a Kaspersky Lab covered entity; or
- (3) Contains components using any hardware or software developed in whole or in part by a Kaspersky Lab covered entity.

*Kaspersky Lab covered entity* means—

- (1) Kaspersky Lab;
- (2) Any successor entity to Kaspersky Lab, including any change in name, e.g., “Kaspersky”;
- (3) Any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or
- (4) Any entity of which Kaspersky Lab has a majority ownership.

(b) *Prohibition.* Section 1634 of Division A of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) prohibits Government use of any Kaspersky Lab covered article. The Contractor is prohibited from—

- (1) Providing any Kaspersky Lab covered article that the Government will use on or after October 1, 2018; and
- (2) Using any Kaspersky Lab covered article on or after October 1, 2018, in the development of data or deliverables first produced in the performance of the contract.

(c) *Reporting requirement.*

(1) In the event the Contractor identifies covered article provided to the Government during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report, in writing, via email, to the Contracting Officer, Contracting Officer's Representative, and the Enterprise Security Operations Center (SOC) at NDAA Incidents@hq.dhs.gov, with required information in the body of the email. In the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Enterprise SOC, Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) and Contracting Officer's Representative(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (c)(1) of this clause:

(i) Within 3 business days from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; brand; model number (Original Equipment Manufacturer (OEM) number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the report pursuant to paragraph (c)(1) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of a Kaspersky Lab covered article, any reasons that led to the use or submission of the Kaspersky Lab covered article, and any additional efforts that will be incorporated to prevent future use or submission of Kaspersky Lab covered articles.

(d) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts, including subcontracts for the acquisition of commercial items.

(End of clause)

**FAR 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (DEVIATION 20-05) (DEC 2020)**

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

"Backhaul" means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

"Covered foreign country" means The People's Republic of China. "Covered telecommunications equipment or services" means-

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

"Critical technology" means-

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

"Interconnection arrangements" means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

"Reasonable inquiry" means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

"Roaming" means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

"Substantial or essential component" means any component necessary for the proper function or performance of a piece of equipment, system, or service.

*(b) Prohibition.*

(1) 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. The Contractor is prohibited from providing to the Government 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, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

(2) Section 889(a)(1)(B) 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, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses 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, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) *Exceptions.* This clause does not prohibit contractors 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.

(d) Reporting requirement. (1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause in writing via email to the Contracting Officer, Contracting Officer's Representative, and the Network Operations Security Center (NOSC) at NDAA Incidents@hg.dhs.gov, with required information in the body of the email. In the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the NOSC, Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) and Contracting Officer's Representative(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.clod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

(End of clause)

**FAR 52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (Feb 2024)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

(1) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (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)).

(2) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (Dec 2023) (Section 1634 of Pub. L. 115-91).

(3) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(4) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).

(5) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (Mar 2023) (31 U.S.C. 3903 and 10 U.S.C. 3801).

(6) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).

(7) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Jun 2020), with Alternate I (Nov 2021) (41 U.S.C. 4704 and 10 U.S.C. 4655).

(2) 52.203-13, Contractor Code of Business Ethics and Conduct (Nov 2021) (41 U.S.C. 3509)).

(3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

- (4) 52.203-17, Contractor Employee Whistleblower Rights (Nov 2023) (41 U.S.C. 4712); this clause does not apply to contracts of DoD, NASA, the Coast Guard, or applicable elements of the intelligence community—see FAR 3.900(a).
- (5) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020) (Pub. L. 109-282) (31 U.S.C. 6101 note).
- (6) [Reserved].
- (7) 52.204-14, Service Contract Reporting Requirements (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).
- (8) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).
- (9) 52.204-27, Prohibition on a ByteDance Covered Application (Jun 2023) (Section 102 of Division R of Pub. L. 117-328).
- (10) 52.204-28, Federal Acquisition Supply Chain Security Act Orders—Federal Supply Schedules, Governmentwide Acquisition Contracts, and Multi-Agency Contracts. (Dec 2023) (Pub. L. 115–390, title II).
- (11) (i) 52.204-30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. (Dec 2023) (Pub. L. 115–390, title II).
- (ii) Alternate I (Dec 2023) of 52.204–30.
- (12) 52.209-6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Nov 2021) (31 U.S.C. 6101 note).
- (13) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018) (41 U.S.C. 2313).
- (14) [Reserved].
- (15) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Oct 2022) (15 U.S.C. 657a).
- (16) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2022) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
- (17) [Reserved]
- (18) (i) 52.219-6, Notice of Total Small Business Set-Aside (Nov 2020) (15 U.S.C. 644).
- (ii) Alternate I (Mar 2020) of 52.219-6.
- (19) (i) 52.219-7, Notice of Partial Small Business Set-Aside (Nov 2020) (15 U.S.C. 644).
- (ii) Alternate I (Mar 2020) of 52.219-7.
- (20) 52.219-8, Utilization of Small Business Concerns (Feb 2024) (15 U.S.C. 637(d)(2) and (3)).
- (21) (i) 52.219-9, Small Business Subcontracting Plan (Sep 2023) (15 U.S.C. 637(d)(4)).
- (ii) Alternate I (Nov 2016) of 52.219-9.
- (iii) Alternate II (Nov 2016) of 52.219-9.
- (iv) Alternate III (Jun 2020) of 52.219-9.
- (v) Alternate IV (Sep 2023) of 52.219-9.
- (22) (i) 52.219-13, Notice of Set-Aside of Orders (Mar 2020) (15 U.S.C. 644(r)).
- (ii) Alternate I (Mar 2020) of 52.219-13.
- (23) 52.219-14, Limitations on Subcontracting (Oct 2022) (15 U.S.C. 637s).
- (24) 52.219-16, Liquidated Damages—Subcontracting Plan (Sep 2021) (15 U.S.C. 637(d)(4)(F)(i)).
- (25) 52.219-27, Notice of Set-Aside for, or Sole-Source Award to, Service-Disabled Veteran-

- Owned Small Business (SDVOSB) Concerns Eligible Under the SDVOSB Program (Feb 2024) (15 U.S.C. 657f).
- (26) (i) 52.219-28, Post Award Small Business Program Rerepresentation (Feb 2024) (15 U.S.C. 632(a)(2))
  - (ii) Alternate I (Mar 2020) of 52.219-28.
  - (27) 52.219-29, Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Oct 2022) (15 U.S.C. 637(m)).
  - (28) 52.219-30, Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Oct 2022) (15 U.S.C. 637(m)).
  - (29) 52.219-32, Orders Issued Directly Under Small Business Reserves (Mar 2020) (15 U.S.C. 644(r)).
  - (30) 52.219-33, Nonmanufacturer Rule (Sep 2021) (15U.S.C. 637(a)(17)).
  - (31) 52.222-3, Convict Labor (Jun 2003) (E.O.11755).
  - (32) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (Feb 2024).
  - (33) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).
  - (34) (i) 52.222-26, Equal Opportunity (Sep 2016) (E.O.11246).
  - (ii) Alternate I (Feb 1999) of 52.222-26.
  - (35) (i) 52.222-35, Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212).
  - (ii) Alternate I (Jul 2014) of 52.222-35.
  - (36) (i) 52.222-36, Equal Opportunity for Workers with Disabilities (Jun 2020) (29 U.S.C. 793).
  - (ii) Alternate I (Jul 2014) of 52.222-36.
  - (37) 52.222-37, Employment Reports on Veterans (Jun 2020) (38 U.S.C. 4212).
  - (38) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
  - (39) (i) 52.222-50, Combating Trafficking in Persons (Nov 2021) (22 U.S.C. chapter 78 and E.O. 13627).
  - (ii) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
  - (40) 52.222-54, Employment Eligibility Verification (May 2022) (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial products or commercial services as prescribed in FAR 22.1803.)
  - (41) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
  - (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
  - (42) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).
  - (43) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).
  - (44) (i) 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514).
  - (ii) Alternate I (Oct 2015) of 52.223-13.
  - (45) (i) 52.223-14, Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).

- (ii) Alternate I (Jun2014) of 52.223-14.
- (46) 52.223-15, Energy Efficiency in Energy-Consuming Products (May 2020) (42 U.S.C. 8259b).
- (47) (i) 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).
- (ii) Alternate I (Jun 2014) of 52.223-16.
- (48) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (Jun 2020) (E.O. 13513).
- (49) 52.223-20, Aerosols (Jun 2016) (E.O. 13693).
- (50) 52.223-21, Foams (Jun2016) (E.O. 13693).
- (51) (i) 52.224-3 Privacy Training (Jan 2017) (5 U.S.C. 552 a).
- (ii) Alternate I (Jan 2017) of 52.224-3.
- (52) (i) 52.225-1, Buy American-Supplies (Oct 2022) (41 U.S.C. chapter 83).
- (ii) Alternate I (Oct 2022) of 52.225-1.
- (53) (i) 52.225-3, Buy American-Free Trade Agreements-Israeli Trade Act (NOV 2023) (19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, 19 U.S.C. chapter 29 (sections 4501-4732), Public Law 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).
- (ii) Alternate I [Reserved].
- (iii) Alternate II (Dec 2022) of 52.225-3.
- (iv) Alternate III (Feb 2024) of 52.225-3.
- (v) Alternate IV (Oct 2022) of 52.225-3.
- (54) 52.225-5, Trade Agreements (NOV 2023) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).
- (55) 52.225-13, Restrictions on Certain Foreign Purchases (Feb 2021) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- (56) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).
- (57) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).
- (58) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov2007) (42 U.S.C. 5150).
- (59) 52.229-12, Tax on Certain Foreign Procurements (Feb 2021).
- (60) 52.232-29, Terms for Financing of Purchases of Commercial Products and Commercial Services (Nov 2021) (41 U.S.C. 4505, 10 U.S.C. 3805).
- (61) 52.232-30, Installment Payments for Commercial Products and Commercial Services (Nov 2021) (41 U.S.C. 4505, 10 U.S.C. 3805).
- (62) 52.232-33, Payment by Electronic Funds Transfer-System for Award Management (Oct2018) (31 U.S.C. 3332).
- (63) 52.232-34, Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).
- (64) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C. 3332).
- (65) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).
- (66) 52.242-5, Payments to Small Business Subcontractors (Jan 2017) (15 U.S.C.

637(d)(13)).

(67) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) (46 U.S.C. 55305 and 10 U.S.C. 2631).

(ii) Alternate I (Apr 2003) of 52.247-64.

(iii) Alternate II (Nov 2021) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

(1) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter 67).

(2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(3) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (Aug 2018) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(4) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(5) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) (41 U.S.C. chapter 67).

(6) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) (41 U.S.C. chapter 67).

(7) 52.222-55, Minimum Wages for Contractor Workers Under Executive Order 14026 (Jan 2022).

(8) 52.222-62, Paid Sick Leave Under Executive Order 13706 (Jan 2022) (E.O. 13706).

(9) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (42 U.S.C. 1792).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, as defined in FAR 2.101, on the date of award of this contract, and does not contain the clause at 52.215-2, Audit and Records-Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made

available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1), in a subcontract for commercial products or commercial services. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Nov 2021) (41 U.S.C. 3509).

(ii) 52.203-17, Contractor Employee Whistleblower Rights (Nov 2023) (41 U.S.C. 4712).

(iii) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (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)).

(iv) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (Dec 2023) (Section 1634 of Pub. L. 115-91).

(v) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(vi) 52.204-27, Prohibition on a ByteDance Covered Application (Jun 2023) (Section 102 of Division R of Pub. L. 117-328).

(vii) (A) 52.204-30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. (Dec 2023) (Pub. L. 115-390, title II).

(B) Alternate I (Dec 2023) of 52.204-30.

(viii) 52.219-8, Utilization of Small Business Concerns (Feb 2024) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ix) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

(x) 52.222-26, Equal Opportunity (Sep 2015) (E.O.11246).

(xi) 52.222-35, Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212).

(xii) 52.222-36, Equal Opportunity for Workers with Disabilities (Jun 2020) (29 U.S.C. 793).

- (xiii) 52.222-37, Employment Reports on Veterans (Jun 2020) (38 U.S.C. 4212).
- (xiv) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.
- (xv) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter 67).
- (xvi) (A) 52.222-50, Combating Trafficking in Persons (Nov 2021) (22 U.S.C. chapter 78 and E.O. 13627).
- (B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
- (xvii) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) (41 U.S.C. chapter 67).
- (xviii) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) (41 U.S.C. chapter 67).
- (xix) 52.222-54, Employment Eligibility Verification (May 2022) (E.O. 12989).
- (xx) 52.222-55, Minimum Wages for Contractor Workers Under Executive Order 14026 (Jan 2022).
- (xxi) 52.222-62, Paid Sick Leave Under Executive Order 13706 (Jan 2022) (E.O. 13706).
- (xxii) (A) 52.224-3, Privacy Training (Jan 2017) (5 U.S.C. 552a).
- (B) Alternate I (Jan 2017) of 52.224-3.
- (xxiii) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).
- (xxiv) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
- (xxv) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (Mar 2023) (31 U.S.C. 3903 and 10 U.S.C. 3801). Flow down required in accordance with paragraph (c) of 52.232-40.
- (xxvi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) (46 U.S.C. 55305 and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may include in its subcontracts for commercial products

and commercial services a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of Clause)

**FAR 52.217-8 Option to Extend Services (Nov 1999)**

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 5 days.

End of Clause

**DHS FAR Class Deviation 17-03 – Revision 1  
52.224-3 Privacy Training – Alternate I (DEVIATION) –**

(a) Definition. As used in this clause, personally identifiable information means information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other information that is linked or linkFARable to a specific individual. (See Office of Management and Budget (OMB) Circular A–130, Managing Federal Information as a Strategic Resource).

(b) The Contractor shall ensure that initial privacy training, and annual privacy training thereafter, is completed by contractor employees who—

- (1) Have access to a system of records;
- (2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information on behalf of an agency; or
- (3) Design, develop, maintain, or operate a system of records (see also FAR subpart 24.1 and 39.105).

(c) The contracting agency will provide initial privacy training, and annual privacy training thereafter, to Contractor employees for the duration of this contract. Contractor employees shall satisfy this requirement by completing Privacy at DHS: Protecting Personal Information accessible at <http://www.dhs.gov/dhs-security-and-training-requirements-contractors>. Training shall be completed within 30 days of contract award and be completed on an annual basis thereafter not later than October 31st of each year.

(d) The Contractor shall maintain and, upon request, provide documentation of completion of privacy training to the Contracting Officer.

(e) The Contractor shall not allow any employee access to a system of records, or permit any

employee to create, collect, use, process, store, maintain, disseminate, disclose, dispose or otherwise handle personally identifiable information, or to design, develop, maintain, or operate a system of records unless the employee has completed privacy training, as required by this clause.

(f) The substance of this clause, including this paragraph (f), shall be included in all subcontracts under this contract, when subcontractor employees will—

(1) Have access to a system of records;

(2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or

(3) Design, develop, maintain, or operate a system of records.

(End of Clause)

#### **FAR 52.252-2 Clauses Incorporated by Reference (Feb 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address:

<https://www.acquisition.gov>.

(End of Clause)

The full text of a Homeland Security Acquisition Regulation clause is accessible at [HSAR | Homeland Security](#).

(End of Clause)

#### **HSAR 3052.212-70 Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items (July 2023)**

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference:

(a) *Provisions.*

N/A

(b) *Clauses.*

3052.203-70, Instructions for Contractor Disclosure of Violations

3052.204-71 Contractor Employee Access  
3052.204-71 Contractor Employee Access--Alternate I  
3052.204-72 Safeguarding of Controlled Unclassified Information  
3052.204-72 Safeguarding of Controlled Unclassified Information—Alternate I  
3052.204-73 Notification and Credit Monitoring Requirements for Personally Identifiable Information Incidents  
3052.205-70 Advertisement, Publicizing Awards, and Releases  
3052.236-70 Special Provisions for Work at Operating Airports  
3052.242-72, Contracting Officer's Representative

(End of Clause)

**[END OF SECTION I]  
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**PART III – LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS**

**SECTION J:  
LIST OF ATTACHMENTS**

**J.1 LIST OF ATTACHMENTS**

The following is a list of all attachments associated with this requirement. Some attachments are for informational purposes for offerors and may be applicable to task order requirements.

<b>Attachments</b>	
Attachment 1	Statement of Objectives
Attachment 2	Contract Detention Facility Design Standards
Attachment 3	EOIR Design Standards
Attachment 4	Structured Cable Plant Standard
Attachment 5	Reserved
Attachment 6	G-391 Upload Template
Attachment 6A	G-391 Data Collection Categories and Descriptions
Attachment 7	Personal Property Operations Handbook
Attachment 8	Virtual Attorney Visitation
Attachment 9	IHSC Design Standard, June 2023
Attachment 10	Prison Rape Elimination Act Regulations
Attachment 11	ICE Firearms Policy
Attachment 12	Reserved
Attachment 13	ICE Health Service Corps (IHSC) Medical Minimum Staffing Requirements
Attachment 14	Solicitation Questions Template
Attachment 15	Pricing Schedule

**[END OF SECTION J]**

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## PART IV – REPRESENTATIONS AND INSTRUCTIONS

### SECTION K: REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR RESPONDENTS

#### K1. PROVISIONS INCORPORATED BY REFERENCE

Number	Title	Date
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions	Sep 2007
52.203-18	Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements—Representation	Jan 2017
52.204-5	Women-Owned Business (Other Than Small Business)	Oct 2014
52.204-17	Ownership or Control of Offeror	Aug 2020
52.212-3	Offeror Representations and Certifications-Commercial Products and Commercial Services	May 2024
52.225-25	Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications	Jun 2020

#### K2. PROVISIONS INCORPORATED IN FULL TEXT

##### FAR 52.203-2 Certificate of Independent Price Determination (Apr 1985)

(a) The offeror certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision \_\_\_\_\_ [insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies paragraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

End of Provision

#### **FAR 52.204-20 Predecessor of Offeror (Aug 2020)**

(a) Definitions. 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 by unique location; 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.

Predecessor means an entity that is replaced by a successor and includes any predecessors of the predecessor.

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.

(b) 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.

(c) If the Offeror has indicated "is" in paragraph (b) 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).

(End of Provision)

### **FAR 52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)**

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at 52.204-26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at 52.212-3, Offeror Representations and Certifications- Commercial Products or Commercial Services. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at 52.204-26, or in paragraph (v)(2)(ii) of the provision at 52.212-3.

(a) Definitions. As used in this provision—

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Prohibition. (1) 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. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that

connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) 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, 2020, from entering into a contract or extending or renewing a contract with an entity that uses 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. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) Procedures. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(d) Representation. The Offeror represents that—

(1) 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. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It  does,  does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) Disclosures. (1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name,

unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) 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);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(End of Provision)

**FAR 52.204-26 Covered Telecommunications Equipment or Services-Representation (Oct 2020)**

(a) Definitions. As used in this provision, "covered telecommunications equipment or services" and "reasonable inquiry" have the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Procedures. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(c) (1) Representation. The Offeror represents that it  does,  does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(2) After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it  does,  does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(End of Provision)

**FAR 52.209-2 Prohibition on Contracting with Inverted Domestic Corporations-Representation (Nov 2015)**

(a) Definitions. "Inverted domestic corporation" and "subsidiary" have the meaning given in the clause of this contract entitled Prohibition on Contracting with Inverted Domestic Corporations (52.209-10).

(b) 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.

(c) Representation. The Offeror represents that-

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

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

(End of Provision)

**FAR 52.209-2 Prohibition on Contracting with Inverted Domestic Corporations-Representation (Nov 2015)**

(a) Definitions. "Inverted domestic corporation" and "subsidiary" have the meaning given in the clause of this contract entitled Prohibition on Contracting with Inverted Domestic Corporations (52.209-10).

(b) 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.

(c) Representation. The Offeror represents that-

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

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

(End of Provision)

**FAR 52.209-5 Certification Regarding Responsibility Matters (Aug 2020)**

(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);

(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;

(D) Have , have not , within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at 9.104-5(a)(2) 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 non-responsible.

(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.

(End of Provision)

#### **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.

(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).

End of Provision

#### **52.209-11 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.

(End of Provision)

**FAR 52.215-6 Place of Performance (Oct 1997)**

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation,  intends,  does not intend [check applicable block] to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks "intends" in paragraph (a) of this provision, it shall insert in the following spaces the required information:

Place of Performance (Street Address, City, State, County, ZIP Code)	Name and Address of Owner and Operator of the Plant or Facility if Other than Offeror or Respondent
-	-
-	-

End of Provision

**FAR 52.219-1 Small Business Program Representations (Feb 2024)**

(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, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

Service-disabled veteran-owned small business (SDVOSB) concern means a small business concern-

(1) (i) Not less than 51 percent of which is owned and controlled 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 or;

(2) A small business concern eligible under the SDVOSB Program in accordance with 13 CFR part 128 (see subpart 19.14).

(3) Service-disabled veteran, as used in this definition, 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), with a disability that is service-connected, as defined in 38 U.S.C. 101(16), and who is registered in the Beneficiary Identification and Records Locator Subsystem, or successor system that is maintained by the Department of Veterans Affairs' Veterans Benefits Administration, as a service-disabled veteran.

Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program means an SDVOSB concern that—

(1) Effective January 1, 2024, is designated in the System for Award Management (SAM) as certified by the Small Business Administration (SBA) in accordance with 13 CFR 128.300; or

(2) Has represented that it is an SDVOSB concern in SAM and submitted a complete application for certification to SBA on or before December 31, 2023.

Service-disabled veteran-owned small business (SDVOSB) Program means a program that authorizes contracting officers to limit competition, including award on a sole-source basis, to SDVOSB concerns eligible under the SDVOSB Program.

Small business concern—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (b) of this provision.

(2) Affiliates, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

Small-disadvantaged business concern, consistent with 13 CFR 124.1001, 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 the threshold at 13 CFR 124.104(c)(2) 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.

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 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, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300.

(b) (1) The North American Industry Classification System (NAICS) code for this acquisition is 561612

(2) The small business size standard is 17M.

(3) The small business size standard for a concern that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce (i.e., nonmanufacturer), is 500 employees, or 150 employees for information technology value-added resellers under NAICS code 541519, if the acquisition—

(i) Is set aside for small business and has a value above the simplified acquisition threshold;

(ii) Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or

(iii) Is an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(c) Representations. (1) The offeror represents as part of its offer that—

(i) it  is,  is not a small business concern; or

(ii) It  is,  is not a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). [ The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_.]

(2) [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 124.1001.

(3) [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 women-owned small business concern.

(4) Women-owned small business (WOSB) joint venture eligible under the WOSB Program. The offeror represents as part of its offer that it  is,  is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [ The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_.]

(5) Economically disadvantaged women-owned small business (EDWOSB) joint venture. The offeror represents as part of its offer that it  is,  is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [ The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_.]

(6) 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.

(7) SDVOSB concern. [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(6) of this provision.] The offeror represents as part of its offer that it  is,  is not an SDVOSB concern.

(8) SDVOSB joint venture eligible under the SDVOSB Program. [Complete only if the offeror represented itself as a SDVOSB concern in paragraph (c)(7) of this provision]. The offeror represents as part of its offer that it  is,  is not a SDVOSB joint venture eligible under the SDVOSB Program that complies with the requirements of 13 CFR 128.402. [ The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_.]

(9) 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, as having been certified by SBA as a HUBZone small business concern in the Dynamic Small Business Search and SAM, and will attempt to maintain an employment rate of HUBZone residents of 35 percent of its employees during performance of a HUBZone contract (see 13 CFR 126.200(e)(1)); and

(ii) It  is,  is not a HUBZone joint venture that complies with the requirements of 13 CFR 126.616(a) through (c). [ The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_.] Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.

(d) Notice. Under 15 U.S.C.645(d), any person who misrepresents a firm’s status as a business concern that is small, HUBZone small, small disadvantaged, service-disabled veteran-owned small, economically disadvantaged women-owned small, or women-owned small eligible under the WOSB Program in order to obtain a contract to be awarded under the preference programs established pursuant to section 8, 9, 15, 31, and 36 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall-

- (1) Be punished by imposition of fine, imprisonment, or both;
- (2) Be subject to administrative remedies, including suspension and debarment; and
- (3) Be ineligible for participation in programs conducted under the authority of the Act.

(End of Provision)

### **Goals- Representation (Dec 2016)**

(a) This representation shall be completed if the Offeror received \$7.5 million or more in Federal 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.

(b) Representation. [Offeror is to check applicable blocks in paragraphs (1) and (2).]

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

(2) 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 available website a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

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

(c) If the Offeror checked "does" in paragraphs (b)(1) or (b)(2) of this provision, respectively, the Offeror shall provide the publicly accessible website(s) where greenhouse gas emissions and/or reduction goals are reported:

(End of Provision)

### **HSAR 3052.209-70 - Prohibition on Contracts with Corporate Expatriates (Jun 2006)**

(a) Prohibitions.

Section 835 of the Homeland Security Act, 6 U.S.C. 395, prohibits the Department of Homeland Security from entering into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation as defined in this provision, or with any subsidiary of such an entity. The Secretary shall waive the prohibition with respect to any specific contract if the Secretary determines that the waiver is required in the interest of national security.

(b) Definitions.

As used in this provision: Expanded Affiliated Group means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

Foreign Incorporated Entity means any entity which is, or but for subsection (b) of section 835 of the Homeland Security Act, 6 U.S.C. 395, would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

Inverted Domestic Corporation. A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) The entity completes the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) After the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(i) In the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(ii) In the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) The expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

*Person, domestic, and foreign* have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(c) Special rules. The following definitions and special rules shall apply when determining whether a foreign incorporated entity should be treated as an inverted domestic corporation.

(1) Certain stock disregarded. For the purpose of treating a foreign incorporated entity as an inverted domestic corporation these shall not be taken into account in determining ownership:

(i) Stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) Stock of such entity which is sold in a public offering related to an acquisition described in section 835(b)(1) of the Homeland Security Act, 6 U.S.C. 395(b)(1).

(2) Plan deemed in certain cases. If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(3) *Certain transfers disregarded.* The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(d) *Special rule for related partnerships.* For purposes of applying section 835(b) of the Homeland Security Act, 6 U.S.C. 395(b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as a partnership.

(e) Treatment of Certain Rights.

(1) Certain rights shall be treated as stocks to the extent necessary to reflect the present value of all equitable interests incident to the transaction, as follows:

(i) warrants;

- (ii) options;
- (iii) contracts to acquire stock;
- (iv) convertible debt instruments; and
- (v) others similar interests.

(2) Rights labeled as stocks shall not be treated as stocks whenever it is deemed appropriate to do so to reflect the present value of the transaction or to disregard transactions whose recognition would defeat the purpose of Section 835.

(f) *Disclosure*. The offeror under this solicitation represents that [Check one]:

it is not a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.1087003; ‘

it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.1087003, but it has submitted a request for waiver pursuant to 3009.108-7004, which has not been denied; or

it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.1087003, but it plans to submit a request for waiver pursuant to 3009.108-7004.

(g) A copy of the approved waiver, if a waiver has already been granted, or the waiver request, if a waiver has been applied for, shall be attached to the bid or proposal.

End of Provision

### **HSAR 3052.209-72 Organizational Conflict of Interest (Jun 2006)**

(a) Determination. The Government has determined that this effort may result in an actual or potential conflict of interest, or may provide one or more offerors with the potential to attain an unfair competitive advantage. The nature of the conflict of interest and the limitation on future contracting opportunities for detention and/or related services supporting ICE and any other ordering entities under the SSV from DHS and/or DoD.

(b) If any such conflict of interest is found to exist, the Contracting Officer may (1) disqualify the offeror, or (2) determine that it is otherwise in the best interest of the United States to contract with the offeror and include the appropriate provisions to avoid, neutralize, mitigate, or waive such conflict in the contract awarded. After discussion with the offeror, the Contracting Officer may determine that the actual conflict cannot be avoided, neutralized, mitigated or otherwise resolved to the satisfaction of the Government, and the offeror may be found ineligible for award.

(c) Disclosure: The offeror hereby represents, to the best of its knowledge that: \_\_\_\_ (1) It is not aware of any facts which create any actual or potential organizational conflicts of interest relating to the award of this contract, or \_\_\_\_\_ (2) It has included information in its proposal, providing all current information bearing on the existence of any actual or potential organizational conflicts of interest, and has included a mitigation plan in accordance with paragraph (d) of this

clause.

(d) Mitigation. If an offeror with a potential or actual conflict of interest or unfair competitive advantage believes the conflict can be avoided, neutralized, or mitigated, the offeror shall submit a mitigation plan to the Government for review. Award of a contract where an actual or potential conflict of interest exists shall not occur before Government approval of the mitigation plan. If a mitigation plan is approved, the restrictions of this clause do not apply to the extent defined in the mitigation plan.

(e) Other Relevant Information: In addition to the mitigation plan, the Contracting Officer may require further relevant information from the offeror. The Contracting Officer will use all information submitted by the offeror, and any other relevant information known to DHS, to determine whether an award to the offeror may take place, and whether the mitigation plan adequately neutralizes or mitigates the conflict.

(f) Corporation Change. The successful offeror shall inform the Contracting Officer within thirty (30) calendar days of the effective date of any corporate mergers, acquisitions, and/or divestures that may affect this clause.

(g) Flow-down. The contractor shall insert the substance of this clause in each first-tier subcontract that exceeds the simplified acquisition threshold.

(End of Provision)

**[END OF SECTION K]**

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**SECTION L:**  
INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS OR RESPONDENTS

**L.1 PROVISIONS INCORPORATED BY REFERENCE**

<b>Number</b>	<b>Title</b>	<b>Date</b>
52.204-7	System for Award Management	Oct 2018
52.204-16	Commercial and Government Entity Code Reporting	Aug 2020
52.204-22	Alternative Line-Item Proposal	Jan 2017
52.212-1	Instructions to Offerors—Commercial Products and Commercial Services	Sep 2023
52.216-27	Single or Multiple Awards	Oct 1995

**L.2 PROVISIONS INCORPORATED BY FULL TEXT**

**FAR 52.216-1 Type of Contract (Apr 1984)**

The Government contemplates award of a hybrid *FFP and Time & Material/Labor Hour* contract resulting from this solicitation.

(End of Provision)

**FAR 52.216-27 Single or Multiple Awards (Oct 1995)**

The Government may elect to award a single delivery order contract or task order contract or to award multiple delivery order contracts or task order contracts for the same or similar supplies or services to two or more sources under this solicitation.

(End of Provision)

**FAR 52.216-32 Task Order and Delivery-Order Ombudsman (Sept 2019)**

(a) In accordance with [41 U.S.C. 4106\(g\)](#), the Agency has designated the following task-order and delivery-order Ombudsman for this contract. The Ombudsman must review complaints from the Contractor concerning all task-order and delivery-order actions for this contract and ensure the Contractor is afforded a fair opportunity for consideration in the award of orders, consistent with the procedures in the contract. <https://www.dhs.gov/office-immigration-detention-ombudsman>.

(b) Consulting an ombudsman does not alter or postpone the timeline for any other process (e.g., protests).

(c) Before consulting with the Ombudsman, the Contractor is encouraged to first address complaints with the Contracting Officer for resolution. When requested by the Contractor, the Ombudsman may keep the identity of the concerned party or entity confidential, unless prohibited by law or agency procedure.

(End of clause)

*Alternate I* (Sept 2019). As prescribed in [16.506](#) (j), add the following paragraph (d) to the basic

clause.

(d) Contracts used by multiple agencies.

(1) This is a contract that is used by multiple agencies. Complaints from Contractors concerning orders placed under contracts used by multiple agencies are primarily reviewed by the task-order and delivery-order Ombudsman for the ordering activity.

(2) The ordering activity has designated the following task-order and delivery-order Ombudsman for this order: <https://www.dhs.gov/office-immigration-detention-ombudsman>

(3) Before consulting with the task-order and delivery-order Ombudsman for the ordering activity, the Contractor is encouraged to first address complaints with the ordering activity's Contracting Officer for resolution. When requested by the Contractor, the task-order and delivery-order Ombudsman for the ordering activity may keep the identity of **the concerned party or entity confidential, unless prohibited by law or agency procedure.**

#### **FAR 52.233-2 Service of Protest (Sept 2006)**

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer by obtaining written and dated acknowledgment of receipt from Sarah West at [Sarah.A.West@ice.dhs.gov](mailto:Sarah.A.West@ice.dhs.gov)

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of Provision)

#### **FAR 52.252-1 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 address: <https://www.acquisition.gov>.

(End of Provision)

#### **L.3 PROPOSAL INSTRUCTIONS (Addendum to FAR 52.212-1)**

Offerors must comply with FAR 52.212-1 and this addendum. Offers that do not comply with these instructions may be considered non-compliant with the solicitation terms and ineligible for award.

### **Election of Applicable Objectives**

Section C, Attachment 1 - SOO includes a total of eight (8) objectives. A prospective offeror need not have the capability to provide each and every service detailed under the objectives. For example, a vendor may be able to provide comprehensive detention services without providing specific case management support, or vice versa, only provide case management support without providing comprehensive detention services. Or a vendor may only be able to provide expert medical or transportation services without providing comprehensive detention services. The government encourages vendors to propose against any part of the SOO but must clearly elect which objective(s) (I-VIII) and which services it is proposing in its submissions. Vendors may be awarded a contract for the expert services they provide without needing to meet every objective of the SOO.

*Note: This solicitation does not commit the government to pay any cost incurred in the submission of the offer or in making necessary studies or designs for the preparation thereof, nor to contract for services.*

### **L.3.1 PROPOSAL CONTENT**

#### **Factor 1: CORPORATE EXPERIENCE**

Offerors shall submit a written proposal, totaling no more than five (5) pages (excluding the cover page), detailing their CORPORATE EXPERIENCE by addressing the topics below in consideration of the SOO.

Offerors shall provide sufficient information for the government to determine its level of confidence in the ability of the offeror to perform the (elected) requirements of the SOO based on an assessment of their submitted responses.

- Using specific examples that are verifiable, describe your corporate experience providing comprehensive detention services to include processing, housing, transporting, and providing care and/or security for aliens in administrative custody.
- Using specific examples that are verifiable, describe your corporate experience providing a housing facility meeting the requirements of SOO Objective I under emergency or high-pressure conditions. The facility could be a new, permanent, fixed, temporary and/or soft-sided/semi-rigid sprung structure.
- Using specific examples that are verifiable, describe your corporate experience getting people cleared through the background investigations process smoothly; and deploying trained and qualified staff who are capable of safely administering detention requirements across dispersed locations within a 120-day period requiring minimal government intervention.
- Using specific examples that are verifiable, describe your corporate experience providing adequate care to detained aliens including health services with the equipment to assess, triage, and provide basic and intermediate medical and mental health care. Additionally, describe your

experience managing a quality food service program alongside basic hygiene care including but not limited to washbasins, showers, clothing, and bedding.

- Using specific examples that are verifiable, describe your corporate experience providing detainee access to legal resources and effective management, safeguarding, and protection of detainee records.
- Using a specific example that is verifiable, describe an instance in your corporate experience providing case management and processing support services that is applicable or similar to ICE's law enforcement mission and/or a detained population. Describe the types of case management and processing tasks completed and the case volume.
- Using a specific example that is verifiable, describe an instance in your corporate experience where you did not meet contract requirements under performance of a detention services contract and how you identified, communicated, addressed, mitigated and resolved the failure.

## **Factor 2: PRICE**

### **Contractor Category Pricing**

The Offeror shall provide a completed Attachment 15 - Pricing Schedule to align with their proposal's elected objectives. The Attachment 15 - Pricing Schedule shall be submitted in the Excel document provided with no other alternations or locked cells. This shall not be submitted as a .pdf or any other document other than the excel document. A completed Attachment 15 - Pricing Schedule is defined as one that is populated based on the following instructions:

- The Offeror provided the required information in the Attachment 15 - Pricing Schedule in the format provided and as a workable Excel spreadsheet.
- Enter the offeror's name in Row 1, Column A;
- Enter the offeror's Unique Entity ID in Row 2, Column A;
- The offeror shall complete the cells in Columns H and I that are highlighted in yellow with its best price, if different from the Government ceiling price. NOTE: Exceeding the values in the Attachment 15 - Pricing Schedule will result in unreasonable price and the Offeror's proposal will be deemed ineligible for award.
- The offeror may elect the items to price based on SOO objective electives; therefore, not all lines must be priced. If there are incomplete pricing lines for the elected SOO objectives, the proposal will be deemed ineligible for award.
  - Based on the alignment of the CLINs to the elected SOO objectives, offerors may "zero out" CLIN pricing in Columns H and I for items not priced/elected.
- The offeror made no alterations or modifications to the Attachment 15 - Pricing Schedule format in any way other than populating the areas identified above.
- These prices shall not be rounded and must include two decimal places, even if it is .00. For example, the offeror shall not annotate \$123.45 as \$123, 123.5, or 123.50; it shall be \$123.45.

The offeror shall consider its working in the highest cost location, highest performance at a government or contractor site and the types of orders that will pose the most risk to it. These prices are only applicable to work performed within the 50 United States, the District of Columbia, and

outlying areas as defined within Federal Acquisition Regulation Part 2. Additionally, the labor rates proposed shall, for the applicable labor categories (see <https://sam.gov/content/wage-determinations>), also account for the minimum wage established under the DOL SCLS Wage Determination Indices. The rate of compensation for overtime pay premiums will be specified at the task order level. Once the offeror populates the cells in Column B based on the instructions provided above, Columns H through I will auto-populate with prices for the 12-month ordering increments. These prices are based on an annual escalation factor of 3.0% beginning with the first ordering year (12 months). This escalation factor will be used by all offerors and cannot be changed. If an offeror proposes an escalation rate that is different than the mandatory 3% it will not be accepted. The DHS derived the 3% applied escalation factor from Global Insight.

Offerors shall also provide a pricing narrative as part of its pricing proposal that includes the basis of proposed pricing and other relevant information e.g., any proposed discounts.

Separate price proposals will be required for requirements at the task order level and will be evaluated therein.

### L.3.2 PROPOSAL AND QUESTION SUBMISSION TIMES/DATES

Proposal and question submission times and dates are provided in the table below:

Event	Required Submission Date/Time
Questions	Wed., April 2, 2025 at 2:00pm EST
Proposal Submission	Fri., April 4, 2025 at 2:00pm EST

*Note: The above dates are subject to change.*

### L.3.3 PROPOSAL AND QUESTION SUBMISSION INSTRUCTIONS

- 1) **Questions:** All relevant questions related to this solicitation shall be submitted before the time and date specified above. Questions shall be submitted using Attachment 14 – Solicitation Questions Template and instructions therein; questions submitted without this attachment may not be given consideration. Responses to all relevant questions submitted shall be provided together as an amendment to this solicitation as soon as possible after the time and date listed above.
- 2) **Proposal Submissions:** Offerors must submit a proposal in the required format before the time and date specified above.

Timely receipt of questions and proposals by the specified closing time and date is the sole responsibility of the offeror. Questions and proposals received after the time and date specified in this solicitation will be considered as late submissions and will be eliminated from further consideration. ICE shall not be responsible for late or non-delivery of offerors’ proposals or questions due to information technology problems, servers or other technical issues. In order to ensure timely receipt of proposals and questions, offerors should NOT wait until the last moment to electronically submit.

Proposals and questions shall be submitted via email to the following government email address:

[OAQDCR@ice.dhs.gov](mailto:OAQDCR@ice.dhs.gov)

*Note: Proposal and question submission emails must reference the solicitation number (70CDCR25R00000005) in its subject line.*

- 1) **Provision and Clause Fill-in:** Offerors must complete any provision and/or clause requiring fill-in included in Sections I and K. In addition, offerors must include one (1) of the following two (2) statements within this volume regarding the terms and conditions applicable to this solicitation:

*“The terms and conditions included in this solicitation are acceptable to be included in the award document without modification, deletion, or addition.”*

**OR**

*“The terms and conditions included in this solicitation are acceptable to be included in the award document with the exception, deletion, or addition of the following: [offeror shall list exception(s) and rationale for the exception(s)].”*

*Note 1: Taking an exception to a term or condition may render the proposal unacceptable. In addition, any exception taken to any other requirement in this solicitation is invalid and will not be considered.*

*Note 2: Any proprietary data included in this volume shall be clearly identified. Each page that contains proprietary data shall be marked **CONTRACTOR PROPRIETARY** at the top and bottom of the page.*

**[END OF SECTION L]**

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**SECTION M:  
EVALUATION FACTORS FOR AWARD**

**M.1 CLAUSES INCORPORATED BY REFERENCE**

<b>Number</b>	<b>Title</b>	<b>Date</b>
3052.219-72	Evaluation of prime contractor participation in the DHS mentor protégé program	Jun 2006

**M.2 CLAUSES INCORPORATED BY FULL TEXT**

**52.217-5 Evaluation of Options**

**(JUL 1990)**

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers or quotations for award purposes by adding the total price for all options to the total price for the basic requirement to determine the total evaluated price. This includes options under FAR clause 52.217-8, Option to Extend Services, which applies to this solicitation. Evaluation of options will not obligate the Government to exercise the option(s).

(End of Provision)

**M.3 GENERAL**

All submissions should be identical to, or conform closely to, the terms set forth in this solicitation. Proposals must clearly demonstrate how the offeror intends to accomplish the solicitation requirements and must include convincing rationale and substantiation of all claims. Offerors shall assume that the government has no prior knowledge of their experience and will base its evaluation on the information presented in the offerors' proposal.

The proposals shall be submitted in accordance with the instructions in Section L. An offer may be rejected as deficient if the CO determines that the proposal does not comply with the solicitation instructions.

**M.4 EVALUATION APPROACH**

**Factor 1: Corporate Experience (Evaluation of Offerors)**

The government will assess each offeror's demonstration of its prior experience for confidence and its ability to meet the mission needs of providing comprehensive detention or detention-related services as elected by the vendor in accordance with the SOO. This includes the following characteristics:

- Safety and Security: Whether the submitted experience demonstrates an ability to provide for the health and security of both personnel and aliens alongside facility security.
- Case Management and Legal Access: Whether the submitted experience demonstrates an

ability to effectively provide administrative support to detention related activities while properly caring for detained aliens.

- **Technical Ability:** Whether the submitted experience demonstrates technical abilities to effectively provide detention related activities and associated support.
- **Accountability:** Whether the submitted experience demonstrates a mature organizational culture to adhere to ICE’s strategic and organizational policies, inclusive of ICE values of integrity, respect, transparency, and mission success.

In addition, the government will evaluate the offeror’s corporate experience based on its relation to the Contract Line Item Numbers (CLINs) specified in this solicitation. Only those CLINs that the offerors demonstrate experience will be considered for awards. Only experience at an approximate value of \$25 million or more will be considered for evaluation. Failure to provide the required value information will result in disqualification from further evaluation.

If an offeror has no record of recent and relevant prior experience, the offeror will likely receive a low confidence rating. The government will assess the extent to which its level of confidence that the offeror will successfully perform the requirements.

This factor will be assigned one of the following confidence ratings based on the evaluation:

<b>High Confidence</b>	The government has high confidence that the offeror understands the requirement and proposes a sound approach and will be successful in performing the requirement with little or no government intervention.
<b>Some Confidence</b>	The government has some confidence that the offeror understands the requirement, proposes a sound approach, and will be successful in performing the requirement with some government intervention.
<b>Low Confidence</b>	The government has low confidence that the offeror understands the requirement, proposes a sound approach, and will be successful in performing the requirement even with government intervention.

**Factor 2: Price**

**Fairness and Reasonableness**

ICE will evaluate the proposed prices for fairness and reasonableness in accordance with FAR 15.404. This evaluation will entail ICE comparing the offeror’s proposed prices for the ordering period to the Attachment 15 - Pricing Schedule, which are based on the ICE Attachment 1 - Statement of Objectives and the following information:

- a sample of items included in the historical pricing of each CLIN at the task order.
- when available the GSA Multiple-Award Schedule tool rates or prices were used at +2 standard deviation.
- an escalation rate of 3% based on Global Insight which used historical inflation factors.

In this procurement, the government has predetermined the prices that are considered fair and reasonable for each CLIN. Offerors are required to propose pricing that do not exceed with these government-established prices. Pricing that are higher from the predetermined prices will not be considered for award. If the offeror's pricing is considered fair and reasonable the Government may make the award to the offeror.

Offerors can propose all or one of the price items depending on its ability to meet the requirements and may be considered for award for the CLIN(s) that were proposed. Offerors may propose the ceiling prices shown.

## **M.5 AWARD SELECTION – BEST VALUE**

The government intends to evaluate proposals and award upon initial proposals, reserving the right to award without discussions.

The government anticipates awarding to five (5) or more qualifying offerors whose proposals represent the best overall value to the government. In accordance with FAR 15.101-1, the government will utilize the tradeoff source selection process to obtain best value.

The Source Selection Authority's (SSA) decision shall be based on a comparative assessment of proposals against all source selection criteria in the solicitation. While the SSA may use reports and analyses prepared by others, the source selection decision shall represent the SSA's independent judgment.

There are two evaluation factors in total for this procurement:

1. Factor 1: Corporate Experience
2. Factor 2: Price

Factor 1 – Corporate Experience is significantly more important than Factor 2 – Price. As the non-price merits of competing offerors' proposals approach equal, Price will become more important in the best value trade-off decision.

## **M.6 METHODOLOGY OF EVALUATION**

Each proposal will be evaluated for demonstrated understanding of the technical requirements, sound business practices and fair and reasonable pricing. Proposals which fail to meet solicitation requirements or do not demonstrate the capability and experience to perform the requirement may be deemed to be reflective of an inherent lack of technical competence, or indicative of a failure to comprehend the complexity and risks of the proposed work and may be grounds for rejection.

The SSA, using sound business judgment, will base the selection decision on the offeror's relative capability as measured against the evaluation factors. Each proposal submission will stand-alone and be evaluated based on its own merits.

## **M.7 COMPETITIVE RANGE**

The government intends to evaluate proposals and award contracts without discussions. The government reserves the right to hold discussions or seek clarifications, if necessary.

If it is determined that discussions are necessary, the government may establish a competitive range in accordance with FAR 15.306(c) based on the ratings of each proposal against the evaluation criteria. The CO reserves the right to limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. The CO shall have the sole authority to establish a competitive range comprised of only the most highly rated proposals.

## **M.8 RESPONSIBLE PROSPECTIVE CONTRACTORS**

In addition to the evaluation methodology outlined in this solicitation, an offeror must also be found responsible by the CO prior to the award of any resultant contract. This responsibility determination will only be performed for the apparent awardees prior to award. At a minimum, to be determined responsible prospective contractors must:

- a) Have adequate financial resources to perform the contract, or the ability to obtain those resources.
- b) Be able to comply with the required or proposed performance schedule taking into consideration all other business commitments.
- c) Have a satisfactory record of integrity and business ethics.
- d) Have a satisfactory performance record.
- e) Have the necessary organization, experience, accounting and operational controls.
- f) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

**[END OF SECTION M]**