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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------|------------------|--------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30 | | | | 1. REQUISITION NUMBER 1000171534 | | PAGE 1 OF 21 | |
| 2. CONTRACT NO. SPE300-24-D-S775 | | 3. AWARD/EFFECTIVE DATE 2024 SEP 26 | | 4. ORDER NUMBER | | 5. SOLICITATION NUMBER SPE300-23-R-0041 | |
| 7. FOR SOLICITATION INFORMATION CALL: | | a. NAME | | | | b. TELEPHONE NUMBER (No collect calls) | |
| | | | | | | 8. OFFER DUE DATE/ LOCAL TIME 2024 JAN 11 | |
| 9. ISSUED BY DLA TROOP SUPPORT DIRECTORATE OF SUBSISTENCE 700 ROBBINS AVENUE PHILADELPHIA PA 19111-5096 USA Local Admin: Paul Le DPL0013 Tel: 215-737-3633 Email: Paul.Le@dla.mil | | | | CODE SPE300 | | | |
| 11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE | | | | 12. DISCOUNT TERMS Net 30 days | | 10. THIS ACQUISITION IS | |
| | | | | | | <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: _____ % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> EDWOSB NAICS: 311991 <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8 (A) SIZE STANDARD: | |
| | | | | 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) | | 13b. RATING | |
| | | | | | | 14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP | |
| 15. DELIVER TO SEE SCHEDULE | | | | CODE | | 16. ADMINISTERED BY SEE BLOCK 9 Criticality: PAS : None | |
| 17a. CONTRACTOR/ OFFEROR CASH-WA DISTRIBUTING CO. OF KEARNEY, INC. 401 W 4TH ST KEARNEY NE 68845-7825 USA TELEPHONE NO. 3082373151 | | | | CODE 04MP9 | | FACILITY CODE | |
| | | | | 18a. PAYMENT WILL BE MADE BY DEF FIN AND ACCOUNTING SVC BSM P O BOX 182317 COLUMBUS OH 43218-2317 USA | | CODE SL4701 | |
| <input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER | | | | 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED. <input type="checkbox"/> SEE ADDENDUM | | | |
| 19. ITEM NO. | | 20. SCHEDULE OF SUPPLIES/SERVICES | | | 21. QUANTITY | 22. UNIT | 23. UNIT PRICE |
| | | See Schedule | | | | | |
| 25. ACCOUNTING AND APPROPRIATION DATA | | | | | | 26. TOTAL AWARD AMOUNT (For Govt. Use Only) \$47,301,018.51 | |
| <input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA | | | | | | <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED. | |
| <input checked="" type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA | | | | | | <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED. | |
| <input checked="" type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED | | | | | <input checked="" type="checkbox"/> 29. AWARD OF CONTRACT: REF. SPE300-23-R0041 OFFER DATED 2024-Aug-28 YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH , HEREIN IS ACCEPTED AS TO ITEMS: See Schedule of Items | | |
| 30a. SIGNATURE OF OFFEROR/CONTRACTOR | | | | 31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) Leah Albright | | | |
| 30b. NAME AND TITLE OF SIGNER (Type or Print) | | | 30c. DATE SIGNED | | 31b. NAME OF CONTRACTING OFFICER (Type or Print) Leah Albright LEAH.ALBRIGHT@DLA.MIL | | 31c. DATE SIGNED 2024 SEP 26 |

| 19. ITEM NO. | 20. SCHEDULE OF SUPPLIES/SERVICES | 21. QUANTITY | 22. UNIT | 23. UNIT PRICE | 24. AMOUNT |
|-----------------|--------------------------------------|-----------------|-------------|-------------------|---------------|
| | | | | | |

32a. QUANTITY IN COLUMN 21 HAS BEEN

☐ RECEIVED ☐ INSPECTED ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE

32c. DATE

32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE

32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE

32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE

32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER

34. VOUCHER NUMBER

35. AMOUNT VERIFIED
CORRECT FOR

36. PAYMENT

37. CHECK NUMBER

☐ PARTIAL ☐ FINAL

☐ COMPLETE ☐ PARTIAL ☐ FINAL

38. S/R ACCOUNT NO.

39. S/R VOUCHER NUMBER

40. PAID BY

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT

42a. RECEIVED BY (*Print*)

41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER

41c. DATE

42b. RECEIVED AT (*Location*)

42c. DATE REC'D (YY/MM/DD)

42d. TOTAL CONTAINERS

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Form

I. SOLICITATION/CONTRACT FORM

The terms and conditions set forth in the solicitation SPE300-23-R-0041 are incorporated into subject contract.

The following documents are incorporated by reference into the subject contract: your final offer dated August 28, 2024 which is being accepted by the Government to form this contract.

II. PERFORMANCE PERIOD:

A. Effective Period of the Contract:

Tier 1: September 26, 2024 - September 26, 2026

Tier 2: September 27, 2026 - March 25, 2028

Tier 3: March 26, 2028 - September 22, 2029

Orders will begin the week of November 4, 2024, with first delivery the week of November 11, 2024.

B. ESTIMATED DOLLAR VALUE/GUARANTEED MINIMUM/MAXIMUM

| North/ South Dakota Zone | | 24 Month Base | 5-Year Estimate (including All Tiers) | Guaranteed Minimum | 300% Max (5 Years) |
|--------------------------|---------------------------|-----------------------|------------------------------------------|-----------------------|------------------------|
| Group 2a | North Dakota Schools | \$1,299,960.74 | \$3,249,901.84 | \$64,998.04 | \$9,749,705.52 |
| Group 2b | North Dakota Reservations | \$701,569.36 | \$1,753,923.40 | \$35,078.47 | \$5,261,770.21 |
| Group 4a | South Dakota Schools | \$2,883,129.47 | \$7,207,823.69 | \$144,156.47 | \$21,623,471.06 |
| Group 4b | South Dakota Reservations | \$1,422,142.90 | \$3,555,357.24 | \$71,107.14 | \$10,666,071.72 |
| TOTAL | | \$6,306,802.47 | \$15,767,006.17 | \$315,340.12 | \$47,301,018.51 |

NOTE: The guaranteed minimum, per group, which is shown in the “Guaranteed Minimum” column below, constitutes the Agency's full legal obligation as to its ordering requirements for that group. The guaranteed minimum covers the entire contract term (inclusive of all tiers) and, once this obligation is met, there is no further ordering obligation on the part of the Agency regardless of what tier period said obligation is met within. If multiple groups are awarded under the contract, the aggregate guaranteed minimum and contract maximum dollar values for those groups apply to the entire contract, and not on a per group basis.

Group 2a - North Dakota Schools

The Guaranteed Minimum contract dollar value is \$64,998.04 and the 300% Maximum contract dollar value is \$9,749,705.52.

The 24 Month (1st Tier) Estimate is \$1,299,960.74 and the 5 Year (All Tiers) Estimate is \$3,249,901.04

Group 2b - North Dakota Reservations

The Guaranteed Minimum contract dollar value is \$35,078.47 and the 300% Maximum contract dollar value is

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\$5,261,770.21.

The 24 Month (1st Tier) Estimate is \$701,569.36 and the 5 Year (All Tiers) Estimate is \$1,753,923.40.

Group 4a - South Dakota Schools

The Guaranteed Minimum contract dollar value is \$144,156.47 and the 300% Maximum contract dollar value is \$21,623,471.06.

The 24 Month (1st Tier) Estimate is \$2,883,129.47 and the 5 Year (All Tiers) Estimate is \$7,207,823.69.

Group 4b - South Dakota Reservations

The Guaranteed Minimum contract dollar value is \$71,107.14 and the 300% Maximum contract dollar value is \$10,666,071.72.

The 24 Month (1st Tier) Estimate is \$1,422,142.90 and the 5 Year (All Tiers) Estimate is \$3,555,357.24.

Total All Groups - North and South Dakota Schools & Reservations

The Guaranteed Minimum contract dollar value is \$315,340.12 and the 300% Maximum contract dollar value is \$47,301,018.51.

The 24 Month (1st Tier) Estimate is \$6,306,802.47 and the 5 Year (All Tiers) Estimate is \$15,767,006.17.

III. START-UP PERIOD

The Contractor's startup period will take place prior to the first order and is included in the 24-month Tier 1 period. The Contractor shall submit a proposed implementation schedule to the Contracting Officer within fifteen (15) days after award highlighting the steps that will be taken to implement a fully functional distribution account, including all EDI transactions for all customers covered by this solicitation. An additional sixty (60) days will be granted for actual implementation. No more than thirty (30) days after award will be permitted for the contractor to have fully functional distribution accounts in place for all customers.

Cash-Wa is required to submit the following:

A. Submit Local Purchase Procurement plan by October 29, 2024 which includes the following elements:

1. A list of specific items that the contractor currently purchases locally;
2. A list of local growers from which the contractor sources product;
3. Plans to expand the purchase of local items;
4. A list of resources that might assist in efforts to source more local products.

B. Submit a Food Defense Plan (NOTE: download a copy of the DLA Troop Support Food Defense Checklist go to (https://www.dla.mil/Portals/104/Documents/TroopSupport/Subsistence/FoodSafety/FoodQuality/food_defense_check.pdf) by November 12, 2024.

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Form (CONTINUED)

C. Submit a Quality Control Management Plan by November 12, 2024.

IV. ORDERING CATALOGS

The following are part of Cash-Wa's offer and are hereby incorporated as part of subject contract:

Offered delivered price to be utilized for first week of ordering. See Attachment 1 for the Pricing Proposal spreadsheet submitted on August 28, 2024.

Distribution prices for the Contract Period are as follows:

| | |
|--------------------------------------------------------------------|---------|
| SPE300-23-R-0041 North & South Dakota Zone - ND Schools (Group 2a) | Cash-Wa |
| DIP Summary per Case | |
| Distribution Price (Tier 1) | |
| Distribution Price (Tier 2) | |
| Distribution Price (Tier 3) | |

| | |
|-------------------------------------------------------------------------|---------|
| SPE300-23-R-0041 North & South Dakota Zone - ND Reservations (Group 2b) | Cash-Wa |
| DIP Summary per Case | |
| Distribution Price (Tier 1) | |
| Distribution Price (Tier 2) | |
| Distribution Price (Tier 3) | |

| | |
|--------------------------------------------------------------------|---------|
| SPE300-23-R-0041 North & South Dakota Zone - SD Schools (Group 4a) | Cash-Wa |
| DIP Summary per Case | |
| Distribution Price (Tier 1) | |
| Distribution Price (Tier 2) | |
| Distribution Price (Tier 3) | |

| | |
|-------------------------------------------------------------------------|---------|
| SPE300-23-R-0041 North & South Dakota Zone - SD Reservations (Group 4b) | Cash-Wa |
| DIP Summary per Case | |
| Distribution Price (Tier 1) | |
| Distribution Price (Tier 2) | |
| Distribution Price (Tier 3) | |

V. SUPPLIES OF SERVICES AND PRICES

ITEMS: Full-Line Fresh Fruit and Vegetables

CUSTOMERS: DoD Troop and Non-DoD School customers in the North/ South Dakota Zones listed in Attachment 2 of this document.

FOB TERMS: FOB Destination for all items.

NOTE: Paragraph (d) of the Economic Price Adjustment provision contained in the Solicitation enforces an

Form (CONTINUED)

upward ceiling on any economic price adjustments applicable to the instant Contract. Specifically, for Group 2a (North Dakota Schools), the aggregate of contract Delivered Price increases for each item under this provision during the contract period inclusive of any tier period(s) shall not exceed 110% of the initial delivered price for each contract unit price. For Group 2b (North Dakota Reservations), the aggregate of contract Delivered Price increases for each item under this provision during the contract period inclusive of any tier period(s) shall not exceed 90% of the initial delivered price for each contract unit price. For Group 4a (South Dakota Schools), the aggregate of contract Delivered Price increases for each item under this provision during the contract period inclusive of any tier period(s) shall not exceed 110% of the initial delivered price for each contract unit price. For Group 4b (South Dakota Reservations), the aggregate of contract Delivered Price increases for each item under this provision during the contract period inclusive of any tier period(s) shall not exceed 90% of the initial delivered price for each contract unit price. The respective percent (%) ceiling for each line item is in effect throughout the entire length of the contract period. To further illustrate this point, Attachment 1 (Final Pricing) includes a separate column that identifies the percentage EPA ceiling for the individual Delivered Prices of each line item on the catalog. This price represents the maximum increase in Delivered Price allowable for the entire 5-year length of the Contract. For additional information, see the EPA provision as specified in the Solicitation. That said, please be aware that just because an awardee furnishes a price revision on a biweekly basis that falls within the EPA clause's 110 percent (%) for USDA School customers ceiling for Group 2a or EPA clause's 90 percent (%) for USDA Reservation customers ceiling for Group 2b or EPA clause's 110 percent (%) for USDA School customers for Group 4a or EPA clause's 90 percent (%) for USDA Reservation customers ceiling for Group 4b, does not automatically deem that price "fair and reasonable" and thus acceptable. The EPA provision is merely one separate factor that is considered by the Contracting Officer in arriving at his/her final "fair and reasonable" price determinations. Therefore, it is important to note that all other provisions of the Solicitation/Contract must be adhered to in conjunction with the aforementioned EPA provision.

CATALOG #: Non-DoD School Customers in the North Dakota School Zone will order under SPE300-24-D-S775. Non-DoD Tribe Customers in the North Dakota Reservation Zone will order under SPE300-24-D-R775. Non-DoD School Customers in the South Dakota School Zone will order under SPE300-24-D-SB01. Non-DoD Tribe Customers in the South Dakota Reservation Zone will order under SPE300-24-D-RA01. Cash-Wa will invoice in accordance with the customer's orders.

All catalog pricing is valid from Sunday thru the following Saturday. Catalog updates must be received no later than 12:00 P.M. EST the preceding Wednesday.

All pricing will be firm at time of order.

Once submitted through the applicable electronic ordering system (i.e., FFAVORS), an order may be cancelled by a customer up to one (1) day before scheduled delivery via written (e.g., Email) notification to the Contractor and the Contracting Officer. Less than one (1) day from delivery, an order may be cancelled by mutual agreement between the customer and the Contractor. In the event of an act of God, such as extreme weather, the specific situation regarding a cancelled delivery, within less than 1 day, will be dealt with in an equitable manner by the Contracting Officer, who has the ultimate authority and discretion to resolve said issues.

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Form (CONTINUED)**VI. DELIVERIES AND PERFORMANCE**

The following are the designated plant locations for the performance of these contracts for all contract line items:

Place of Performance:

- a) CASH-WA KEARNEY,
401 w. 4TH Street,
Kearney ME 68845
Tel: 308-237-3151
- b) EXPRESS PRODUCE ,
1414 E. 52nd Street ,
Sioux Falls SD 57104
Tel: 605-336-8336
- c) CASH-WA FARGO,
4101 15th Avenue N.,
Fargo ND 58102
Tel: 701-282-8200
- d) CASH-WA ABERDEEN BACK OPE. WAREHOUSE,
810 3RD Avenue SE,
Aberdeen SD 57401
Tel: 605-225-1275

Clauses**52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders --Commercial Products and Commercial Services.**

As prescribed in [12.301](#)(b)(4), insert the following clause:

Contract Terms and Conditions Required To Implement Statutes or Executive Orders --Commercial Products and Commercial Services (May 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

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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:

[Contracting Officer check as appropriate.]

 X (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](#)).

 X (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).

 X (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).

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___ (ii) Alternate I (Dec 2023) of [52.204-30](#).

X (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](#)).

X (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](#)).

X (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. 657s).

X (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

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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) ([15 U.S.C. 637\(a\)\(17\)](#)).

X (31) [52.222-3](#), Convict Labor (Jun 2003) (E.O.11755).

X (32) [52.222-19](#), Child Labor-Cooperation with Authorities and Remedies (Feb 2024).

X (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](#).

X (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](#).

X (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](#)).

X (38) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E. O. 13496).

X (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)

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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 (May 2024) ([42 U.S.C. 7671](#), *et seq.*).

__ (43) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (May 2024) ([42 U.S.C. 7671](#), *et seq.*).

__ (44) [52.223-20](#), Aerosols (May 2024) ([42 U.S.C. 7671](#), *et seq.*).

__ (45) [52.223-21](#), Foams (May 2024) ([42 U.S.C. 7671](#), *et seq.*).

__ (46) [52.223-23](#), Sustainable Products and Services (May 2024) ([E.O. 14057](#), [7 U.S.C. 8102](#), [42 U.S.C. 6962](#), [42 U.S.C. 8259b](#), and [42 U.S.C. 7671l](#)).

__ (47)

(i) [52.224-3](#) Privacy Training (Jan 2017) ([5 U.S.C. 552](#) a).

__ (ii) Alternate I (Jan 2017) of [52.224-3](#).

__ (48)

(i) [52.225-1](#), Buy American-Supplies (Oct 2022) (41 U.S.C. chapter 83).

__ (ii) Alternate I (Oct 2022) of [52.225-1](#).

__ (49)

(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](#).

__ (50) [52.225-5](#), Trade Agreements (NOV 2023) ([19 U.S.C. 2501](#), *et seq.*, [19 U.S.C. 3301](#) note).

__ (51) [52.225-13](#), Restrictions on Certain Foreign Purchases (Feb 2021) (E.O.'s, proclamations, and statutes

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administered by the Office of Foreign Assets Control of the Department of the Treasury).

___ (52) [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).

___ (53) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

___ (54) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

___ (55) [52.226-8](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (May 2024) ([E.O. 13513](#)).

___ (56) [52.229-12](#), Tax on Certain Foreign Procurements (Feb 2021).

___ (57) [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](#)).

___ (58) [52.232-30](#), Installment Payments for Commercial Products and Commercial Services (Nov 2021) (41 U.S.C. 4505, [10 U.S.C. 3805](#)).

___ (59) [52.232-33](#), Payment by Electronic Funds Transfer-System for Award Management (Oct2018) ([31 U.S.C. 3332](#)).

___ (60) [52.232-34](#), Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).

___ (61) [52.232-36](#), Payment by Third Party (May 2014) (31 U.S.C. 3332).

___ (62) [52.239-1](#), Privacy or Security Safeguards (Aug 1996) ([5 U.S.C. 552a](#)).

___ (63) [52.242-5](#), Payments to Small Business Subcontractors (Jan 2017) (15 U.S.C. 637(d)(13)).

___ (64)

(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:

[Contracting Officer check as appropriate.]

___ (1) [52.222-41](#), Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter67).

___ (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).

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___ (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) ([29U.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

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(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).

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(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)

Alternate I (Feb 2000). As prescribed in [12.301](#) (b)(4)(i), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to "paragraphs (a), (b), (c), or (d) of this clause" in the redesignated paragraph (d) to read "paragraphs (a), (b), and (c) of this clause".

Alternate II (Feb 2024) . As prescribed in [12.301](#) (b)(4)(ii), substitute the following paragraphs (d)(1) and (e)(1) for paragraphs (d)(1) and (e)(1) of the basic clause as follows:

(d)(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8 G of the Inspector General Act of 1978 ([5 U.S.C. App.](#)), or an authorized representative of either of the foregoing officials shall have access to and right to --

(i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and

(ii) Interview any officer or employee regarding such transactions.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial products or commercial services, other than --

(i) *Paragraph (d) of this clause*. This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and

(ii) *Those clauses listed in this paragraph (e)(1)*. Unless otherwise indicated below, the extent of the flow

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down shall be as required by the clause-

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

(B) [52.203-15](#), Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5).

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

(D) [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).

(E) [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).

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

(G) __ (I) [52.204 -30](#), Federal Acquisition Supply Chain Security Act Orders -- Prohibition. (Dec 2023) ([Pub. L. 115 -390](#), title II).

__(2) Alternate I (Dec 2023) [52.204-30](#).

(H) [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.

(I) [52.222-21](#), Prohibition of Segregated Facilities (Apr 2015).

(J) [52.222-26](#), Equal Opportunity (Sep 2016) (E.O. 11246).

(K) [52.222-35](#), Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212).

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

(M) [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](#).

(N) [52.222-41](#), Service Contract Labor Standards (Aug 2018) ([41 U.S.C. chapter 67](#)).

(O) __ (I) [52.222-50](#), Combating Trafficking in Persons (Nov 2021) (22 U.S.C. chapter 78 and E.O. 13627).

__(2) Alternate I (Mar 2015) of [52.222-50](#) (22 U.S.C. chapter 78 and E.O. 13627).

(P) [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](#)).

(Q) [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](#)).

(R) [52.222-54](#), Employment Eligibility Verification (May 2022) (Executive Order 12989).

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(S) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (Jan 2022).

(T) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (Jan 2022) (E.O. 13706).

(U)___ (1) [52.224-3](#), Privacy Training (Jan 2017) ([5 U.S.C. 552a](#)).

___ (2) Alternate I (Jan 2017) of [52.224-3](#).

(V) [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).

(W) [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.

(X) [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](#).

(Y) [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.

Parent topic: [52.212 \[Reserved\]](#)

52.203- 3 Gratuities (Apr 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative-

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) of this clause, the Government is entitled-

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This paragraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

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Part 12 Clauses

52.204-19 INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS (DEC 2014) FAR

252.204-7009 LIMITATIONS ON THE USE OR DISCLOSURE OF THIRD-PARTY CONTRACTOR REPORTED CYBER INCIDENT INFORMATION (JAN 2023) DFARS

252.204-7012 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (DEVIATION 2024-O0013) (MAY 2024) DFARS

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

Adequate security means protective measures that are commensurate with the consequences and probability of loss, misuse, or unauthorized access to, or modification of information.

Compromise means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred.

Contractor attributional/proprietary information means information that identifies the contractor(s), whether directly or indirectly, by the grouping of information that can be traced back to the contractor(s) (e.g., program description, facility locations), personally identifiable information, as well as trade secrets, commercial or financial information, or other commercially sensitive information that is not customarily shared outside of the company.

Controlled technical information means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B through F using the criteria set forth in DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

Covered contractor information system means an unclassified information system that is owned, or operated by or for, a contractor and that processes, stores, or transmits covered defense information.

Covered defense information means unclassified controlled technical information or other information, as described in the Controlled Unclassified Information (CUI)

Registry at <http://www.archives.gov/cui/registry/category-list.html>, that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Governmentwide policies, and is --

(1) Marked or otherwise identified in the contract, task order, or delivery order and provided to the contractor by or on behalf of DoD in support of the performance of the contract; or

(2) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract.

Cyber incident means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein.

Forensic analysis means the practice of gathering, retaining, and analyzing computer-related data for investigative purposes in a manner that maintains the integrity of the data.

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

Malicious software means computer software or firmware intended to perform an unauthorized process that will have adverse impact on the confidentiality, integrity, or availability of an information system. This definition includes a virus, worm, Trojan horse, or other code-based entity that infects a host, as well as spyware and some forms of adware.

Media means physical devices or writing surfaces including, but is not limited to, magnetic tapes, optical disks, magnetic disks, large-scale integration memory chips, and printouts onto which covered defense information is recorded, stored, or printed within a covered contractor information system.

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Part 12 Clauses (CONTINUED)

Operationally critical support means supplies or services designated by the Government as critical for airlift, sealift, intermodal transportation services, or logistical support that is essential to the mobilization, deployment, or sustainment of the Armed Forces in a contingency operation.

Rapidly report means within 72 hours of discovery of any cyber incident.

Technical information means technical data or computer software, as those terms are defined in the clause at DFARS 252.227-7013, Rights in Technical Data --Other Than Commercial Products and Commercial Services, regardless of whether or not the clause is incorporated in this solicitation or contract. Examples of technical information include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software executable code and source code.

(b) *Adequate security*. The Contractor shall provide adequate security on all covered contractor information systems. To provide adequate security, the Contractor shall implement, at a minimum, the following information security protections:

(1) For covered contractor information systems that are part of an Information Technology (IT) service or system operated on behalf of the Government, the following security requirements apply:

- (i) Cloud computing services shall be subject to the security requirements specified in the clause 252.239-7010, Cloud Computing Services, of this contract.
- (ii) Any other such IT service or system (i.e., other than cloud computing) shall be subject to the security requirements specified elsewhere in this contract.

(2) For covered contractor information systems that are not part of an IT service or system operated on behalf of the Government and therefore are not subject to the security requirement specified at paragraph (b)(1) of this clause, the following security requirements apply:

(i) Except as provided in paragraph (b)(2)(ii) of this clause, the covered contractor information system shall be subject to the security requirements in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations", Revision 2 (available via the internet at <http://dx.doi.org/10.6028/NIST.SP.800-171>).

(ii)(A) The Contractor shall implement NIST SP 800-171, as soon as practical, but not later than December 31, 2017. For all contracts awarded prior to October 1, 2017, the Contractor shall notify the DoD Chief Information Officer (CIO), via email at osd.dibcsia@mail.mil, within 30 days of contract award, of any security requirements specified by NIST SP 800-171 not implemented at the time of contract award.

(B) The Contractor shall submit requests to vary from NIST SP 800-171 in writing to the Contracting Officer, for consideration by the DoD CIO. The Contractor need not implement any security requirement adjudicated by an authorized representative of the DoD CIO to be nonapplicable or to have an alternative, but equally effective, security measure that may be implemented in its place.

(C) If the DoD CIO has previously adjudicated the contractor's requests indicating that a requirement is not applicable or that an alternative security measure is equally effective, a copy of that approval shall be provided to the Contracting Officer when requesting its recognition under this contract.

(D) If the Contractor intends to use an external cloud service provider to store, process, or transmit any covered defense information in performance of this contract, the Contractor shall require and ensure that the cloud service provider meets security requirements equivalent to those established by the Government for the Federal Risk and Authorization Management Program (FedRAMP) Moderate baseline (<https://www.fedramp.gov/resources/documents/>) and that the cloud service provider complies with requirements in paragraphs (c) through (g) of this clause for cyber incident reporting, malicious software, media preservation and protection, access to additional information and equipment necessary for forensic analysis, and cyber incident damage assessment.

(3) Apply other information systems security measures when the Contractor reasonably determines that information systems security measures, in addition to those identified in paragraphs (b)(1) and (2) of this clause, may be required to provide adequate security in a dynamic environment or to accommodate special circumstances (e.g., medical devices) and any individual, isolated, or temporary deficiencies based on an assessed risk or vulnerability. These measures may be addressed in a system security plan.

(c) *Cyber incident reporting requirement*.

(1) When the Contractor discovers a cyber incident that affects a covered contractor information system or the covered defense information residing therein, or that affects the contractor's ability to perform the requirements of the contract that are designated as operationally critical support and identified in the contract, the Contractor shall --

(i) Conduct a review for evidence of compromise of covered defense information, including, but not limited to, identifying compromised computers, servers, specific data, and user accounts. This review shall also include analyzing covered contractor information system(s) that were part of the cyber incident, as well as other information systems on the Contractor's network(s), that may have been accessed as a result of the incident in order to identify compromised covered defense information, or that affect the Contractor's ability to provide operationally critical support; and

(ii) Rapidly report cyber incidents to DoD at <https://dibnet.dod.mil>.

(2) *Cyber incident report*. The cyber incident report shall be treated as information created by or for DoD and shall include, at a minimum, the required

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elements at <https://dibnet.dod.mil>.

(3) *Medium assurance certificate requirement.* In order to report cyber incidents in accordance with this clause, the Contractor or subcontractor shall have or acquire a DoD-approved medium assurance certificate to report cyber incidents. For information on obtaining a DoD-approved medium assurance certificate, see <https://public.cyber.mil/eca/>.

(d) *Malicious software.* When the Contractor or subcontractors discover and isolate malicious software in connection with a reported cyber incident, submit the malicious software to DoD Cyber Crime Center (DC3) in accordance with instructions provided by DC3 or the Contracting Officer. Do not send the malicious software to the Contracting Officer.

(e) *Media preservation and protection.* When a Contractor discovers a cyber incident has occurred, the Contractor shall preserve and protect images of all known affected information systems identified in paragraph (c)(1)(i) of this clause and all relevant monitoring/packet capture data for at least 90 days from the submission of the cyber incident report to allow DoD to request the media or decline interest.

(f) *Access to additional information or equipment necessary for forensic analysis.* Upon request by DoD, the Contractor shall provide DoD with access to additional information equipment that is necessary to conduct a forensic analysis.

(g) *Cyber incident damage assessment activities.* If DoD elects to conduct a damage assessment, the Contracting Officer will request that the Contractor provide all of the damage assessment information gathered in accordance with paragraph (e) of this clause.

(h) *DoD safeguarding and use of contractor attributional/proprietary information.* The Government shall protect against the unauthorized use or release of information obtained from the contractor (or derived from information obtained from the contractor) under this clause that includes contractor attributional/proprietary information, including such information submitted in accordance with paragraph (c). To the maximum extent practicable, the Contractor shall identify and mark attributional/proprietary information. In making an authorized release of such information, the Government will implement appropriate procedures to minimize the contractor attributional/proprietary information that is included in such authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released.

(i) *Use and release of contractor attributional/proprietary information not created by or for DoD.* Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is not created by or for DoD is authorized to be released outside of DoD --

(1) To entities with missions that may be affected by such information;

(2) To entities that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(3) To Government entities that conduct counterintelligence or law enforcement investigations;

(4) For national security purposes, including cyber situational awareness and defense purposes (including with Defense Industrial Base (DIB) participants in the program at 32 CFR part 236); or

(5) To a support services contractor ("recipient") that is directly supporting Government activities under a contract that includes the clause at 252.204-7009, Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

(j) *Use and release of contractor attributional/proprietary information created by or for DoD.* Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is created by or for DoD (including the information submitted pursuant to paragraph (c) of this clause) is authorized to be used and released outside of DoD for purposes and activities authorized by paragraph

(i) of this clause, and for any other lawful Government purpose or activity, subject to all applicable statutory, regulatory, and policy based restrictions on the Government's use and release of such information.

(k) The Contractor shall conduct activities under this clause in accordance with applicable laws and regulations on the interception, monitoring, access, use, and disclosure of electronic communications and data.

(l) *Other safeguarding or reporting requirements.* The safeguarding and cyber incident reporting required by this clause in no way abrogates the Contractor's responsibility for other safeguarding or cyber incident reporting pertaining to its unclassified information systems as required by other applicable clauses of this contract, or as a result of other applicable U.S. Government statutory or regulatory requirements.

(m) *Subcontracts.* The Contractor shall --

(1) Include this clause, including this paragraph (m), in subcontracts, or similar contractual instruments, for operationally critical support, or for which subcontract performance will involve covered defense information, including subcontracts for commercial products or commercial services, without alteration, except to identify the parties. The Contractor shall determine if the information required for subcontractor performance retains its identity as covered defense information and will require protection under this clause, and, if necessary, consult with the Contracting Officer; and

(2) Require subcontractors to --

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Part 12 Clauses (CONTINUED)

- (i) Notify the prime Contractor (or next higher-tier subcontractor) when submitting a request to vary from a NIST SP 800-171 security requirement to the Contracting Officer, in accordance with paragraph (b)(2)(ii)(B) of this clause; and
- (ii) Provide the incident report number, automatically assigned by DoD, to the prime Contractor (or next higher-tier subcontractor) as soon as practicable, when reporting a cyber incident to DoD as required in paragraph (c) of this clause.
- (End of clause)

- 252.204-7014 LIMITATIONS ON THE USE OR DISCLOSURE OF INFORMATION BY LITIGATION SUPPORT CONTRACTORS (JAN 2023) DFARS
- 252.215-7014 EXCEPTION FROM CERTIFIED COST OR PRICING DATA REQUIREMENTS FOR FOREIGN MILITARY SALES INDIRECT OFFSETS (DEC 2022) DFARS
- 52.222-26 EQUAL OPPORTUNITY (SEP 2016) FAR
- 52.222-50 COMBATING TRAFFICKING IN PERSONS (NOV 2021) FAR
- 252.223-7009 PROHIBITION OF PROCUREMENT OF FLOURINATED AQUEOUS FILM-FORMING FOAM FIRE-FIGHTING AGENT FOR USE ON MILITARY INSTALLATIONS (OCT 2023) FAR
- 52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (MAR 2023) FAR
- 52.233-3 PROTEST AFTER AWARD (AUG 1996) FAR
- 252.244-7000 SUBCONTRACTS FOR COMMERCIAL PRODUCTS OR COMMERCIAL SERVICES (NOV 2023) DFARS
- 252.245-7005 MANAGEMENT AND REPORTING OF GOVERNMENT PROPERTY (JAN 2024) DFARS
- 252.204-7018 PROHIBITION ON THE ACQUISITION OF COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES (JAN 2023) DFARS
- 52.204-27 PROHIBITION ON A BYTEDANCE COVERED APPLICATION (JUN 2023) FAR
- 52.204-28 FEDERAL ACQUISITION SUPPLY CHAIN SECURITY ACT ORDERS -- FEDERAL SUPPLY SCHEDULES, GOVERNMENTWIDE ACQUISITION CONTRACTS, AND MULTI-AGENCY CONTRACTS (DEC 2023) FAR
- 52.204-30 FEDERAL ACQUISITION SUPPLY CHAIN SECURITY ACT ORDERS -- PROHIBITION (DEC 2023) FAR

Attachments

List of Attachments

| Description | File Name |
|-------------------------------|--------------------------------------------|
| ATTACH_Final_Pricing_Proposal | Attachment 1 - Final Pricing Proposal.xlsx |
| ATTACH_Delivery_Schedule | Attachment 2 - Delivery Schedule.xlsx |
| ATTACH_SF1449_Award_Document | both parties.pdf |