REPRESENTATIONS & CERTIFICATIONS

FOREIGN BUSINESS OR INSTITUTE

The following representation & certification solicitation provisions must be completed and this form must be signed and returned with the Offeror’s Proposal.

As used herein, the term “LLNS” shall mean “Lawrence Livermore National Security, LLC”, the term “Subcontract” shall also mean “Purchase Order” or “Agreement,” the term “Offer” shall also mean “Bid,” “Proposal” and “Quotation,” and the term “Offeror” shall also mean “Bidder,” “Proposer,” and “Quoter,” as applicable.

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1. OFFEROR INFORMATION *(Check and Complete all that Apply.)*

Full Name of Company or Institute:        .

[ ]  Foreign Government Institute/Entity (must be owned and operated as an entity of a Foreign Government)

[ ]  Foreign Business

[ ]  Individual or Sole Proprietorship (*for Sole Proprietorship, identify country in which the business was established and is operating, or for an Individual, nationality of the named individual*):       .

[ ]  Other Non-U.S. Company, Institution, or Organization *(describe)*:       .

[ ]  Educational Institution (*identify country in which it was established and is operating*):       .

[ ]  International Organization (per 22 U.S. Code 288) *(describe)*:       .

[ ]  Other *(describe)*:       .

Dun & Bradstreet D-U-N-S® Number:       SAM Unique Entity Identifier:

Primary Performance Location:

 City/State/Province Country

2. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS

(a) *Definitions.* As used in this provision: “Lobbying contact” has the meaning provided at 2 U.S.C. 1602(8). The terms “agency”, “influencing or attempting to influence”, “officer or employee of an agency”, “person”, “reasonable compensation”, and “regularly employed” are defined in the FAR clause of this solicitation entitled “Limitation on Payments to Influence Certain Federal Transactions” (52.203-12).

(b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled “Limitation on Payments to Influence Certain Federal Transactions” (52.203-12) are hereby incorporated by reference in this provision.

(c) *Certification.* The Offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the Offeror with respect to this contract, the Offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The Offeror need not report regularly employed officers or employees of the Offeror to whom payments of reasonable compensation were made.

(e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

*(FAR 52.203-11; SEP 2007)*

3. CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS

1. *Definition.* As used in this provision, “Forced or indentured child labor” is defined as all work or service-
2. Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance for which the worker does not offer himself voluntarily; or
3. Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.
4. *Certification.* The Offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that if it supplies any end product listed in the List of Products Requiring Contract Certification as to Forced or Indentured Child Labor that was mined, produced or manufactured in the corresponding country as listed for that product, the Offeror has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture such end product. On the basis of those efforts, the Offeror certifies it is not aware of any such use of child labor. The List of Products Produced by Forced or Indentured Child Labor is available at http://www.dol.gov/ilab/reports/child-labor/list-of-products/.

*(FAR 52.222-18)*

4. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT AND OTHER RESPONSIBILITY MATTERS

(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 or subcontracts by any Federal agency;

(B) Have [ ] , have not [ ] , within the 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;

1. 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 subdivision (a)(1)(i)(B) of this provision; and
2. 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 [FAR 9.104-5(a)(2)](https://www.acquisition.gov/far/9.104-5#FAR_9_104_5) for which the liability remains unsatisfied.

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.

See FAR 52.209-5 for additional information, including examples.

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

(2) “Principals”, for the purposes of this certification, means officers, directors, owners, partners, and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, 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 LLNS if, at any time prior to Subcontract 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 LLNS may render the Offeror nonresponsible.

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

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

*(FAR 52.209-5; AUG 2020)*

5. BUY AMERICAN ACT CERTIFICATE

The Offeror certifies that each end product or construction material to be delivered, except those listed below, is a domestic end product or domestic construction material as defined in FAR Clause 52.225-1 Buy American – Supplies (NOV 2021) or FAR Clause 52.225-9 Buy American – Construction Material (NOV 2021), as applicable. The Offeror shall list as foreign end products or foreign construction materials, those end products or construction materials that do not satisfy the definition of domestic end product or domestic construction material.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Foreign End Product/Foreign Construction Material | Country of Origin1 | Country of Assembly2 | Manufacturer of Foreign End Product/Foreign Construction Material (if Offeror is a reseller/distributor) 3 | Price or Cost |
|       |       |       |       |       |
|       |       |       |       |       |
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 (List as necessary; supplement this certificate with additional pages if necessary)

1 Country of Origin means the country of manufacture, mining, or production.

2 Country of Assembly means the country where the majority of the product's final assembly took place, if different than the Country of Origin. Assembly means the process of synthetic production in which materials or parts are combined without substantial changes. If Country of Assembly is the same as Country of Origin, enter the same country in both spaces.

3 If Country of Origin and Country of Assembly is the United States, insert “not applicable.”

LLNS shall consider an end product or construction material to be foreign if either the Country of Origin/Assembly is not the United States.

(*Note: LLNS will take into consideration, applicable provisions of Part 25 of the Federal Acquisition Regulation in evaluating offers for foreign end products and foreign construction material.*)

*(FAR 52.225-2, FEB 2021, Modified; and FAR 52.225-10, MAY 2014)*

6. REPRESENTATION OF LIMITED RIGHTS DATA AND RESTRICTED COMPUTER SOFTWARE

 (a) This solicitation sets forth the work to be performed if a Subcontract award results, and LLNS’/DOE’s known delivery requirements for data (as defined in DEAR 927.409). Any resulting Subcontract may also provide LLNS/DOE the option to order additional data under the Additional Data Requirements clause at 52.227-16 of the FAR, if included in the Subcontract. Any data delivered under the resulting Subcontract will be subject to the Rights in Data - General clause that is to be included in the Subcontract. Under the latter clause, a Subcontractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides LLNS/DOE the right to inspect such data at the Subcontractor’s facility.

(b) The Offeror shall complete the representation in paragraph (c) of this provision to either state that none of the data qualify as limited rights data or restricted computer software, or identify, to the extent feasible, which of the data qualifies as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the Offeror’s response is not determinative of the status of such data should a Subcontract be awarded to the Offeror.

(c) Offeror has reviewed the requirements for the delivery of data, including computer software, and states:

(*Check appropriate block*.)

[ ]  None of the data proposed for fulfilling such requirements qualifies as limited rights data or restricted computer software.

[ ]  Data proposed for fulfilling such requirements qualify as limited rights data or restricted computer software and are identified as follows:

|  |
| --- |
|       |
|       |
|       |

**NOTE**: The terms “data”, “limited rights data”, “restricted computer software”, “computer software”, and “form, fit, and function data” are defined in DEAR 927.409 as follows:

*Data* means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include data incidental to the administration of the subcontract, such as financial, administrative, cost and pricing, or management information.

*Limited rights data* means data, other than computer software, developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged. (The Government’s rights to use, duplicate, or disclose limited rights data are as set forth in the Limited Rights Notice of the Rights in Data - General clause.)

*Restricted computer software* means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer software, including minor modifications of any such computer software. (The Government’s rights to use, duplicate, or disclose restricted computer software are as set forth in the Restricted Rights Notice of the Rights in Data - General clause.)

*Computer software* means (i) computer programs which are data comprising a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations, and (ii) data comprising source code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created, or compiled. The term does not include computer data bases.

*Form, fit, and function data* means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, as well as data identifying source, size, configuration, mating, and attachment characteristics, functional characteristics, and performance requirements; except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software.

*(FAR 52.227-15; DEC 2007)*

7. certification regarding violation of arms control treaties or agreements

*(Applicable to non-commercial products/services exceeding $250,000.)*

(a) The Offeror shall check the appropriate block below:

[ ]  N/A (i.e., commercial products/services or non-commercial products/services less than or equal to $250,000).

[ ]  The Offeror certifies that:

i) it does not engage and has not engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act ([22 U.S.C. 2593a](https://www.govregs.com/uscode/22/2593a)). The report is available via the internet at <https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/>; and

(ii) no entity owned or controlled by the Offeror has engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act ([22 U.S.C. 2593a](https://www.govregs.com/uscode/22/2593a)). The report is available via the internet at <https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/>; or

[ ]  The Offeror is providing separate information with its offer in accordance with (d)(2) of FAR 52.209-13; or

(b) 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 submitted a false certification, in addition to other remedies available to the Government or LLNS, such as suspension or debarment, LLNS may terminate any subcontract resulting from the false certification.

*(FAR 52.209-13; NOV 2021)*

8. representation regarding certain telecommunications and video surveillance services or equipment

(a) The Offeror represents that it will [ ] , will not [ ]  **provide** covered telecommunications equipment or services to the Government or LLNS in the performance of any of any contract, subcontract or other contractual instrument resulting from this solicitation.

1. The Offeror represents that it will [ ] , will not [ ]  **use** covered telecommunications equipment or services, or use 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 in the performance of a contract, subcontract or other contractual instrument that would result from this solicitation.
2. If the answer is “will” to either (a) or (b), the Offeror shall provide the following information as part of its offer and **designate** whether it will **provide** or **use** the covered equipment or services:
3. For covered equipment:

(i) The entity that produced the covered telecommunications equipment [include entity name, unique entity identifier, Commercial and Government Entity (CAGE) code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known]:

(ii) 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:

(iii) 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) or (b)(2) of FAR 52.204-24:

1. For covered services:

(i) If the service is related to item maintenance, a description of all covered telecommunication 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):

(ii) If the service is 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 such use would be permissible under the prohibition in paragraph (b)(1) or (b)(2) of FAR 52.204-24:

**NOTE**: The terms “Covered telecommunications equipment or services” and “Covered foreign country” are defined in FAR 52.204-25 as follows:

*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 of 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.

*Covered foreign country* means The People’s Republic of China.

See FAR 52.204-25 for definitions of “c*ritical technology*” and “*substantial or essential component*.”

*(FAR 52.204-24; NOV 2021)*

***I certify that, to the best of my knowledge, the above information is accurate as of the date of my signature.***

Solicitation Number:       Signature:

Signer’s Name:       Title:

Company:       Date: