|  |  |
| --- | --- |
| **SUBJECT\*** | Xenon UV Robot |

**GENERAL INFORMATION**

|  |  |
| --- | --- |
| **CONTRACTING OFFICE’S ZIP CODE\*** | 90815 |
| **SOLICITATION NUMBER\*** | 36C26224Q1094 |
| **RESPONSE DATE/TIME/ZONE** | 05-28-2024 16:00 PACIFIC TIME, LOS ANGELES, USA |
| **ARCHIVE** | 60 DAYS AFTER THE RESPONSE DATE |
| **RECOVERY ACT FUNDS** | N |
| **SET-ASIDE** | SDVOSBC |
| **PRODUCT SERVICE CODE\*** | 6525 |
| **NAICS CODE\*** | 339113 |
| **CONTRACTING OFFICE ADDRESS** | Department of Veterans Affairs  Network Contracting Office 22  4811 Airport Plaza Drive  Suite 600  Long Beach CA 90815 |
| **POINT OF CONTACT\*** | Contract Specialist  Hanan McCullick  Hanan.Mccullick@va.gov  562-766-2234 |

**PLACE OF PERFORMANCE**

|  |  |
| --- | --- |
| **ADDRESS** | Department of Veterans Affairs |
|  | GLA VA HCS |
|  |  |
|  | 11301 Wilshire Blvd |
|  | Los Angeles CA |
| **POSTAL CODE** | 90073 |
| **COUNTRY** |  |

**ADDITIONAL INFORMATION**

|  |  |
| --- | --- |
| **AGENCY’S URL** |  |
| **URL DESCRIPTION** |  |
| **AGENCY CONTACT’S EMAIL ADDRESS** |  |
| **EMAIL DESCRIPTION** |  |

**DESCRIPTION**

(i) This is a combined synopsis/solicitation for commercial items prepared in accordance with the format in Federal Acquisition Regulation (FAR) [Subpart 12.6](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/12.htm" \l "P311_50761), as supplemented with additional information included in this notice. This announcement constitutes the only solicitation; offers are being requested and a written solicitation will not be issued.

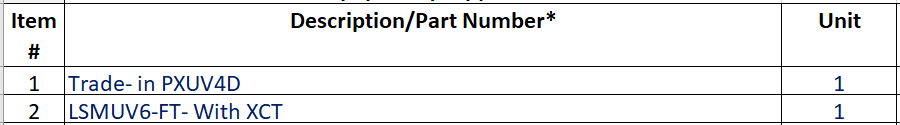
(ii) The solicitation number ***36C2624Q1094*** is issued as a Request for Quotation (RFQ).

(iii) The provisions and clauses in this document are in effect through the Federal Acquisition Circular.

(iv) This solicitation is to be fulfilled through a 100% SDVOSB set aside, using NAICS Code 339113 having a size standard of 1,000 employees.

(v) Vendor must be a verified SDVOSB in VETBIZ.gov at the time of solicitation.

**SCHEDULE OF SUPPLIES:**



(vi) The US Government, Veterans Affairs (VA) seeks to make a procurement for the VA Greater Los Angeles Healthcare System

Offeror quotations must demonstrate meeting the salient physical, functional, or performance characteristic specified in this solicitation, otherwise it will be considered non-responsive. The technical specifications for this requirement are listed for Brand Name or Equal per FAR 52.211-6.

The information identified provided is intended to be descriptive, not restrictive and to indicate the quality that will be satisfactory. The interested parties bear full responsibility to ensure their submission demonstrates to the government that they can provide the brand name or equal to supplies being requested.

**PARTICIPATING VA HEALTHCARE SYSTEM:**

GLA VA Healthcare System

11301 Wilshire Blvd.

Los Angeles, CA, 90073

**2. ROUTINE ORDERS**

Routine orders require delivery the next business day, unless specified elsewhere in this contract.

**3. EMERGENCY ORDERS**

An emergency delivery requires same day delivery and with the time specified during the placement of order.

**4. DELIVERY LOCATION, NORMAL WORK HOURS AND INSTRUCTIONS:**

* Time of delivery specified or mutually agreed to at the time of receipt of telephone orders shall become mandatory upon the Contractor’s acceptance to commitment.
* Delivery of supplies by the scheduled time will be complete except as otherwise authorized by Government personnel.
* If the Contractor cannot make delivery and an outside source must be utilized, the Contractor will be responsible for paying the difference in cost.

**5. RECALLED AND DEFECTIVE PRODUCTS**

The Contractor will immediately notify the Point of Contact and Contracting Officer of any recalls of product or other important product safety issues. As appropriate, the Contractor will replace and/or reimburse recalled / defective products at no cost to the Government. The Contractor may be liable for costs of processing recalls, i.e. administrative and clinical services to replace recalled / defective products.

**6. SAFETY GUIDELINES AND REQUIREMENTS**

Delivery personnel shall be trained in Radiation Safety Techniques, Nuclear Regulatory Commission, Joint Commission safety guidelines and Department of Transportation requirements.

**7. NATIONAL HOLIDAYS OBSERVED BY THE GOVERNMENT**

New Year’s Day January 1

Martin Luther King’s Birthday 3rd Monday in January

Presidents Day 3rd Monday in February

Memorial Day Last Monday in May

Independence Day July 4

Labor Day 1st Monday in September

Columbus Day 2nd Monday in October

Veterans Day November 11

Thanksgiving Day 4th Thursday in November

Christmas Day December 25th

The President of the United States of America may declare additional days as a Federal holiday, and if so, this holiday will automatically be added to the list above. When a holiday falls on a Sunday, the following Monday shall be observed as a Federal holiday. When a holiday falls on a Saturday, the preceding Friday shall be observed as a Federal Holiday.

**8. CONTRACTOR DELIVERY PERSONNEL**

All contractor personnel are required to wear clothing bearing the name of the Contractor and wear a badge that has the Contractor name. Contractor personnel must have a picture I.D. and must be able to speak English.

**9. PARKING AND SPEED LIMIT**

Park only in areas designated by the POC or otherwise directed by Police and Security Service personnel. The Contractor shall display on each of its vehicles the company name in a size that is clearly visible. Upon receipt of award, the Contractor shall submit a list of employees and vehicles to the POC of each facility. The Contractor shall conform to the speed limit set at each Government facility. Should Contractor personnel receive a citation for parking, speeding or other infraction from VA Police and Security, the offenses will be handled in Federal Court as they are Federal offenses.

**10. PLACEMENT OF VERBAL ORDERS**

Contractors shall provide on a separate sheet of paper, the name, location, and telephone number of the office where the participating VA facility/POC will call to place orders.

**11. INVOICE AND PAYMENT**

No advanced payments will be authorized. The contractor shall submit invoices on a monthly basis. The invoice must have at a minimum, the contract number, assigned purchase order, assigned obligation number, date order was placed, date order was shipped, and any additional necessary detailed information to identify service rendered. Payment on invoice may be delayed in invoice(s) are not completed properly.

**12. PERSONNEL POLICY**

The parties agree that the contract personnel working this contract shall not be considered VA employees for any purpose and shall be considered employees of the contractor.

**13. SMOKING POLICY**

Smoking is permitted only in designated areas.

**SALIENT CHARACTERISTICS:**

**MXSUV1-FT with XCT Salient Characteristics**:

·       FDA authorized medical device – Regulation Number 21 CFR 880.6510 Whole room microbial

reduction device; Product Code QXJ

* Emits broad spectrum (240-315 nm) pulsed UV light with xenon lamps
* Touch screen, digital interface
* Live wireless data sync allows for real-time reporting and instant software updates
* Ultrasonic motion sensor safety features
* Durable with dent and scratch resistant materials
* Shock absorbing and rear locking caster wheels
* Automatic lamp retraction for transportation
* No warm-up or cool-down delays
* Includes delivery and Instructions for Use
* Includes Base Year Warranty (first 12 months after delivery):

a.      Replacement lamps

b.     Replacement parts for maintenance and repairs to be performed by Customer’s Xenex Certified Technician (**XCT**)

c.      Repair or replacement of the Robot by Xenex if it does not properly operate due to a manufacturing defect and Customer’s XCT is not trained to perform the repair

d.     Remote diagnostic and telemetry collection

e.      Training reimbursement, certification, and re-certification of Customer’s XCT; however, additional XCTs can be certified with travel at Customer’s expense.

f.      An Account Executive assigned to Customer’s facility who is responsible for:

                                      i.     Developing and implementing a Confidential Standard Operating Plan (**SOP**), customized for Customer’s facility

                                    ii.     Initial robot, user, and facility configuration

                                   iii.     On-going consultation

g.     Software upgrades

h.     24/7 customer support line

i.      Predictive Maintenance (**PM**) monitoring and proactive notification

j.      Access to the Xenex Disinfection Management System Portal

k.     Monthly performance and compliance reports

l.      Online operator training materials

**Statement of Facts: Functionality**

The Xenex LightStrike™ Robot is a semi-autonomous device. Once the operator initiates a cycle, the intuitive exit detection will ensure there is no one in the room. The LightStrike™ Robot’s head then raises and contains the Pulsed Xenon UV light system that produces UV across the entire germicidal spectrum (200-315 nm), deactivating the pathogens at the wavelengths where they are most susceptible. After the disinfection cycle is complete, the Pulsed Xenon lamp will shut off. The head of the LightStrike™ Robot will automatically retract back into the hub for safe repositioning and storage of the device.

**Statement of Facts: Coverage**

The Xenex LightStrike™ Robot provides 360-degree coverage. The Robot uses pulsed, high energy, broad-spectrum UV light technology that is uniquely lethal to microorganisms – it’s 4300x more intense in peak power than a mercury bulb. Disinfection cycles are fast, allowing you to clean surfaces in as little as 5 minutes.

**Statement of Facts: Service And Warranty**

The Xenex LightStrike™ Robot shall include one year of warranty and service. Including:

● Replacement lamps

● Replacement parts

● PM monitoring

● Portal access

● The unit, room, and user lists

● AE support and consultation

● Monthly reports

● Online training materials

● 24/7 support line

● Software upgrades

● Remote diagnostic and telemetry collection

● XCT retraining and recertification

**Statement of Facts: Training**

The Xenex Support Program shall include training and customer service for the first year at no additional charge.

(vii) Delivery Requirements:

**Place of Delivery**

GLA VA Healthcare System | 11301 Wilshire Blvd. | Los Angeles, CA, 90073

(viii) The provision at [52.212-1](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm" \l "P1619_225648), Instructions to Offerors – Commercial Items, applies to this solicitation.

FAR 52.212-1 Addendum:

**All offeror quotes for this solicitation must be received electronically through email no later than Tuesday, May 28, 2024, 4:00 PM PST.** Ensure to reference solicitation number **36C26224Q1094** within subject line of the email. Any offeror quotes received after the prescribed date/time shall be considered late and will not be considered for award. Any questions regarding this solicitation must be received electronically through email no later than **Thursday, May 23, 2024, 12:00 PM PST**.

Offers shall be sent by email to Hanan McCullick at [Hanan.Mccullick@va.gov](mailto:Hanan.Mccullick@va.gov)

*(ix) The provision at FAR [52.212-2](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm" \l "P1683_237350), Evaluation -- Commercial Items (Oct 2014), applies to this solicitation.*

FAR 52.212-2 Addendum / Replacement:

(a) The Government will award a contract resulting from this solicitation to the responsive and responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

*Lowest priced quotation that meets all salient characteristics that is both responsive and responsible.*

*Acceptability of equipment/services shall be established by review of each submitted quotation by the designated evaluator(s) and verification that any equal-to items meet the salient characteristics included in this solicitation. Submissions to this solicitation must show clear, compelling and convincing evidence that equal-to items meet all the salient characteristics. Offers that include any items that are not determined as Brand Name or Equal shall result in an unacceptable offer. See 52.211-6* ***Brand Name or Equal*** *for additional information.*

(b) Options. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified with a minimum of at least sixty days, shall result in a binding contract without further action by either party. Before the offer’s specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of Provision)

AUTHORIZED DISTRIBUTOR LETTER (ADL)

Any suppliers, distributors and/or resellers who participate in this solicitation, must be authorized to provide the supplies by the Original Equipment Manufacturer (OEM). An Authorized Distributor Letter (ADL) from the manufacturer shall be included with your response to be considered for award.

If the potential Authorized Supplier is not the OEM, the Authorized Supplier must provide an Authorized Distributor Letter from the OEM signed within the last 90 days. The letter must either state specific product(s) quoted or that the quoter is an authorized distributor for all of the manufacturer’s products. This letter must be on the manufacturer’s letterhead and contain the signature of an authorized official for the manufacturer.

(x) Must include a completed copy of the provision at [52.212-3](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm" \l "P1697_239202) -- Offeror Representations and Certifications -- Commercial Items, with this solicitation or ensure SAM.gov is updated with current information.

(xi) The clause at [52.212-4](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm" \l "P2015_284518), Contract Terms and Conditions -- Commercial Items, applies to this acquisition.

**52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (OCT 2018)**

(a) Inspection/Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights—

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) Assignment. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) Disputes. This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) Definitions. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) Invoice.

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer—System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) Patent indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payment.—

(1) Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) Prompt payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) Discount. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) Interest.

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) Final decisions. The Contracting Officer will issue a final decision as required by 33.211 if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) Taxes. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) Termination for cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) Limitation of liability. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) Other compliances. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause;

(3) The clause at 52.212-5.

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments

(9) The specification.

(t) [Reserved]

(u) Unauthorized Obligations.

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an “I agree” click box or other comparable mechanism (e.g., “click-wrap” or “browse-wrap” agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

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

(End of Clause)

(xii) The clause at [52.212-5](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm" \l "P2206_322432), Contract Terms and Conditions Required To Implement Statutes Or Executive Orders -- Commercial Items, applies to this acquisition.

**52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (JUN 2020)**

(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 items:

(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 and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115–91).

(3) 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (AUG 2019) (Section 889(a)(1)(A) of Pub. L. 115–232).

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

(5) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).

(6) 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 items:

[] (1) 52.203–6, Restrictions on Subcontractor Sales to the Government (JUN 2020), with Alternate I (OCT 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

[] (2) 52.203–13, Contractor Code of Business Ethics and Conduct (JUN 2020) (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) 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020) (Pub. L. 109–282) (31 U.S.C. 6101 note).

[] (5) [Reserved]

[] (6) 52.204–14, Service Contract Reporting Requirements (OCT 2016) (Pub. L. 111–117, section 743 of Div. C).

[] (7) 52.204–15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (Pub. L. 111–117, section 743 of Div. C).

[] (8) 52.209–6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (JUN 2020) (31 U.S.C. 6101 note).

[] (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018) (41 U.S.C. 2313).

[] (10) [Reserved]

[] (11)(i) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (MAR 2020) (15 U.S.C. 657a).

[] (ii) Alternate I (MAR 2020) of 52.219-3.

[X] (12)(i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (MAR 2020) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

[] (ii) Alternate I (MAR 2020) of 52.219-4.

[] (13) [Reserved]

[] (14)(i) 52.219-6, Notice of Total Small Business Set-Aside (MAR 2020) (15 U.S.C. 644).

[] (ii) Alternate I (MAR 2020).

[] (15)(i) 52.219-7, Notice of Partial Small Business Set-Aside (MAR 2020) (15 U.S.C. 644).

[] (ii) Alternate I (MAR 2020) of 52.219-7.

[] (16) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C. 637(d)(2) and (3)).

[] (17)(i) 52.219–9, Small Business Subcontracting Plan (JUN 2020) (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 (JUN 2020) of 52.219–9.

[] (18) 52.219-13, Notice of Set-Aside of Orders (MAR 2020) (15 U.S.C. 644(r)).

[] (19) 52.219-14, Limitations on Subcontracting (MAR 2020) (15 U.S.C. 637(a)(14)).

[] (20) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).

[X] (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (MAR 2020) (15 U.S.C. 657f).

[] (22)(i) 52.219-28, Post Award Small Business Program Rerepresentation (MAR 2020) (15 U.S.C 632(a)(2)).

[] (ii) Alternate I (MAR 2020) of 52.219-28.

[] (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (MAR 2020) (15 U.S.C. 637(m)).

[] (24) 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 (MAR 2020) (15 U.S.C. 637(m)).

[] (25) 52.219-32, Orders Issued Directly Under Small Business Reserves (MAR 2020) (15 U.S.C. 644(r)).

[] (26) 52.219-33, Nonmanufacturer Rule (MAR 2020) (15 U.S.C. 637(a)(17))

[] (27) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

[] (28) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (JAN 2020) (E.O. 13126).

[] (29) 52.222-21, Prohibition of Segregated Facilities (APR 2015).

[] (30)(i) 52.222–26, Equal Opportunity (SEP 2016) (E.O. 11246).

[] (ii) Alternate I (FEB 1999) of 52.222-26.

[] (31)(i) 52.222–35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).

[] (ii) Alternate I (JULY 2014) of 52.222-35.

[] (32)(i) 52.222–36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793).

[] (ii) Alternate I (JULY 2014) of 52.222-36.

[] (33) 52.222–37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212).

[] (34) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).

[X] (35)(i) 52.222-50, Combating Trafficking in Persons (JAN 2019) (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).

[] (36) 52.222-54, Employment Eligibility Verification (OCT 2015). (E. O. 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

[] (37)(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.)

[] (38) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693).

[] (39) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693).

[] (40)(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.

[] (41)(i) 52.223-14, Acquisition of EPEAT®-Registered Televisions (JUN 2014) (E.O.s 13423 and 13514).

[] (ii) Alternate I (JUN 2014) of 52.223-14.

[] (42) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007)(42 U.S.C. 8259b).

[] (43)(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.

[X] (44) 52.223–18, Encouraging Contractor Policies to Ban Text Messaging While Driving (JUN 2020) (E.O. 13513).

[] (45) 52.223-20, Aerosols (JUN 2016) (E.O. 13693).

[] (46) 52.223-21, Foams (JUN 2016) (E.O. 13693).

[] (47) (i) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

[] (ii) Alternate I (JAN 2017) of 52.224-3.

[] (48) 52.225-1, Buy American—Supplies (MAY 2014) (41 U.S.C. chapter 83).

[] (49)(i) 52.225-3, Buy American—Free Trade Agreements—Israeli Trade Act (MAY 2014) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 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 (MAY 2014) of 52.225-3.

[] (iii) Alternate II (MAY 2014) of 52.225-3.

[] (iv) Alternate III (MAY 2014) of 52.225-3.

[] (50) 52.225–5, Trade Agreements (OCT 2019) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

[X] (51) 52.225-13, Restrictions on Certain Foreign Purchases (JUN 2008) (E.O.'s, proclamations, and statutes 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. 2302 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).

[X] (55) 52.229–12, Tax on Certain Foreign Procurements (JUN 2020).

[] (56) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

[] (57) 52.232-30, Installment Payments for Commercial Items (JAN 2017) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

[X] (58) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (Oct 2018) (31 U.S.C. 3332).

[] (59) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).

[] (60) 52.232-36, Payment by Third Party (MAY 2014) (31 U.S.C. 3332).

[] (61) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).

[] (62) 52.242-5, Payments to Small Business Subcontractors (JAN 2017)(15 U.S.C. 637(d)(13)).

[] (63)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

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

[] (iii) Alternate II (FEB 2006) 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 items:

[] (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 Under Executive Order 13658 (DEC 2015).

[] (8) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2017) (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 items. 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 (JUN 2020) (41 U.S.C. 3509).

(ii) 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)).

(iii) 52.204–23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115–91).

(iv) 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (AUG 2019) (Section 889(a)(1)(A) of Pub. L. 115–232).

(v) 52.219–8, Utilization of Small Business Concerns (Oct 2018) (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.

52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (MAR 2020) (15 U.S.C. 657f).

(vi) 52.222-21, Prohibition of Segregated Facilities (APR 2015).

(vii) 52.222–26, Equal Opportunity (SEP 2016) (E.O. 11246).

(viii) 52.222–35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).

(ix) 52.222–36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793).

(x) 52.222–37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212).

(xi) 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.

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

(xiii)(A) 52.222-50, Combating Trafficking in Persons (JAN 2019) (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).

(xiv) 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).

(xv) 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).

(xvi) 52.222-54, Employment Eligibility Verification (OCT 2015) (E. O. 12989).

(xvii) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2015).

(xviii) 52.222-62 Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

(xix)(A) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

(B) Alternate I (JAN 2017) of 52.224-3.

(xx) 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. 2302 Note).

(xxi) 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.

(xxii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) 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 items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of Clause)

(xxiii) In addition, the following clauses shall also apply:

**52.211-6 – Brand Name or Equal (Aug 1999)**

(a) If an item in this solicitation is identified as “brand name or equal,” the purchase description reflects the characteristics and level of quality that will satisfy the Government’s needs. The salient physical, functional, or performance characteristics that “equal” products must meet are specified in the solicitation.

(b) To be considered for award, offers of “equal” products, including “equal” products of the brand name manufacturer, must—

(1) Meet the salient physical, functional, or performance characteristic specified in this solicitation;

(2) Clearly identify the item by—

(i) Brand name, if any; and

(ii) Make or model number;

(3) Include descriptive literature such as illustrations, drawings, or a clear reference to previously furnished descriptive data or information available to the Contracting Officer; and

(4) Clearly describe any modification the offeror plans to make in a product to make it conform to the solicitation requirements. Mark any descriptive material to clearly show the modification.

(c) The Contracting Officer will evaluate “equal” products on the basis of information furnished by the offeror or identified in the offer and reasonably available to the Contracting Officer. The Contracting Officer is not responsible for locating or obtaining any information not identified in the offer.

(d) Unless the offeror clearly indicates in its offer that the product being offered is an “equal” product, the offeror shall provide the brand name product referenced in the solicitation.

(End of clause)

**52.217-6 - Option for Increased Quantity (Mar 1989)**

The Government may increase the quantity of supplies called for in the Schedule at the unit price specified. The Contracting Officer may exercise the option by written notice to the Contractor within one-hundred eighty (180) calendar days of contract conclusion. Delivery of the added items, not to exceed 50% of all contract line items, shall continue at the same rate as the like items called for under the contract, unless the parties otherwise agree.

(End of clause)

**852.212-72 - Gray Market and Counterfeit Items (Mar 2020)**

(a) No used, refurbished, or remanufactured supplies or equipment/parts shall be provided. This procurement is for new Original Equipment Manufacturer (OEM) items only. No gray market items shall be provided. Gray market items are OEM goods intentionally or unintentionally sold outside an authorized sales territory or sold by non-authorized dealers in an authorized sales territory.

(b) No counterfeit supplies or equipment/parts shall be provided. Counterfeit items include unlawful or unauthorized reproductions, substitutions, or alterations that have been mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified item from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitutions include used items represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics.

(c) Vendor shall be an OEM, authorized dealer, authorized distributor or authorized reseller for the proposed equipment/system, verified by an authorization letter or other documents from the OEM. All software licensing, warranty and service associated with the equipment/system shall be in accordance with the OEM terms and conditions.

(End of clause)

**52.204-27 Prohibition on a ByteDance Covered Application (JUN 2023)**

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

*Covered application* means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

*Information technology*, as defined in 40 U.S.C. 11101(6)—

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) Of that equipment; or

(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

(b) *Prohibition*. Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, “No TikTok on Government Devices” Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors. The Contractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor’s employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

(c) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

**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/these address(es):

<http://www.acquisition.gov/comp/far/index.html> (FAR)

<http://www.va.gov/oal/library/vaar/index.asp> (VAAR)

(End of clause)

In addition, the following clauses and provisions shall also apply:

|  |  |  |
| --- | --- | --- |
| 52.232-18 | Availability of Funds | (Apr 1984) |
| [52.233-1](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm) | Disputes | (May 2014) |
| [52.233-3](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm) | Protest after award | (Aug 1996) |
| [852.203-70](http://farsite.hill.af.mil/archive/VAAR/2008_09_Apr_01/852.htm) | Commercial advertising | (Jan 2008) |
| [852.232-72](http://farsite.hill.af.mil/archive/VAAR/2008-02/852.htm) | Electronic submission of payment requests | (Nov 2012) |
| [52.204-7](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm" \l "P588_84628) | System for Award Management | (Oct 2018) | |
| [52.204-16](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm" \l "P834_120338) | Commercial and Government Entity Code Reporting | (Oct 2016) | |
| [52.209-7](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm" \l "P1241_180366) | Information Regarding Responsibility Matters | (Oct 2018) | |
| [52.233-2](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_232.htm" \l "P1168_211053) | Service of Protest | (Sept 2006) | |
| [852.233-70](https://www.va.gov/oal/library/vaar/vaar852.asp" \l "85223370) | Protest Content/Alternative Dispute Resolution | (Oct 2018) | |
| [852.252-70](https://www.va.gov/oal/library/vaar/vaar852.asp" \l "85223371) | Solicitation Provisions or Clauses Incorporated by Reference | (Jan 2008) | |
| [852.237-70](http://farsite.hill.af.mil/archive/VAAR/2008-02/852.htm) | Contractor responsibilities | Apr 1984 | |
| 852.215-70 | Service-Disabled Veteran-Owned and Veteran-Owned Small Business evaluation factors | Jul 2016 | |