

PART IV - REPRESENTATIONS AND INSTRUCTIONS

009-024-06

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PART IV - REPRESENTATIONS AND INSTRUCTIONS

REPRESENTATIONS, CERTIFICATIONS, AND OTHER
STATEMENTS OF THE BIDDERS

1. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1984)

(a) The Offeror certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose or restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

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

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

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

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

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above-

.....
[insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

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

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

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure. (FAR 52.203-2)

2. CONTINGENT FEE REPRESENTATION AND AGREEMENT (APR 1984)

(a) Representation. The offeror represents that, except for full-time bona fide employees working solely for the offeror, the offeror -

(Note: The offeror must check the appropriate boxes. For interpretation of the representation, including the term "bona fide employee," see Subpart 3.4 of the Federal Acquisition Regulation.)

(1) ☐ has, ☐ has not employed or retained any person or company to solicit or obtain this contract; and

(2) ☐ has, ☐ has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(b) Agreement. The offeror agrees to provide information relating to the above Representation as requested by the Contracting Officer and, when subparagraph (a)(1) or (a)(2) is answered affirmatively, to promptly submit to the Contracting Officer -

(1) A completed Standard Form 119, Statement of Contingent or Other Fees, (SF 119); or

(2) A signed statement indicating that the SF 119 was previously submitted to the same contracting office, including the date and applicable solicitation or contract number, and representing the prior SF 119 applies to this offer or quotation. (FAR 52.203-04)

3. TYPE OF BUSINESS ORGANIZATION - FORMAL ADVERTISING (APR 1984)

The bidder, by checking the applicable box, represents that it operates as ☐ a corporation incorporated under the laws of the State of, ☐ an individual, ☐ a partnership, ☐ a nonprofit organization, or ☐ a joint venture. (FAR 52.214-02)

4. PARENT COMPANY AND IDENTIFYING DATA (APR 1984)

(a) A "parent" company, for the purpose of this provision, is one that owns or controls the activities and basic business policies of the bidder. To own the bidding company means that the parent company must own more than 50 percent of the voting rights in that company. A company may control a bidder as a parent even though not meeting the requirements for such ownership if the parent company is able to formulate, determine, or veto basic policy decisions of the offeror through the use of dominant minority voting rights, use of proxy voting, or otherwise.

(b) The bidder ☐ is, ☐ is not (check applicable box) owned or controlled by a parent company.

(c) If the bidder checked "is" in paragraph (b) above, it shall provide the following information:

Name and Main Office Address
of Parent Company (Include
Zip Code)

Parent Company's Employer's
Identification Number

.....
(d) If the bidder checked "is not" in paragraph (b) above, it shall insert its own Employer's Identification Number on the following line
..... (FAR 52.214-08)

5. SMALL BUSINESS CONCERN REPRESENTATION (APR 1984)

The offeror represents and certifies as part of its offer that it [] is, [] is not a small business concern and that [] all, [] not all supplies to be furnished will be manufactured or produced by a small business concern in the United States, its possessions, or Puerto Rico. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation. (FAR 52.219-01)

6. SMALL DISADVANTAGED BUSINESS CONCERN REPRESENTATION (APR 1984)

(a) Representation. The offeror represents that it [] is, [] is not a small disadvantaged business concern.

(b) Definitions.

"Asian-Indian American," as used in this provision, means a United States citizen whose origins are in India, Pakistan, or Bangladesh.

"Asian-Pacific American," as used in this provision, means a United States citizen whose origins are in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territory of the Pacific Islands, the Northern Mariana Islands, Laos, Cambodia, or Taiwan.

"Native Americans," as used in this provision, means American Indians, Eskimos, Aleuts, and native Hawaiians.

"Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field or operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

"Small disadvantaged business concern," as used in this provision, means a small business concern that (1) is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals and (2) has its management and daily business controlled by one or more such individuals.

(c) Qualified groups. The offeror shall presume that socially and

economically disadvantaged individuals include Black Americans, Native Americans, and other individuals found to be qualified by the SBA under 13 CFR 124.1. (FAR 52.219-02)

7. WOMEN - OWNED SMALL BUSINESS REPRESENTATION (APR 1984)

(a) Representation. The offeror represents that it [] is, [] is not a woman-owned small business concern.

(b) Definitions.

"Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominate in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standard in 13 CFR 121.

"Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business. (FAR 52.219-03)

8. CERTIFICATION OF NONSEGREGATED FACILITIES (APR 1984)

(a) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(b) By the submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.

(c) The offeror further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will -

(1) Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;

(2) Retain the certifications in the files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES.

A Certification of Nonsegregated Facilities must be submitted before

the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001. (FAR 52.222-21)

9. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (APR 1984)

The offeror represents that -

(a) It ☐ has, ☐ has not participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114;

(b) It ☐ has, ☐ has not, filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards. (FAR 52.222-22)

10. CLEAN AIR AND WATER CERTIFICATION (APR 1984)

The offeror certifies that -

(a) Any facility to be used in the performance of this proposed contract is ☐, is not ☐ listed on the Environmental Protection Agency List of Violating Facilities;

(b) The Offeror will immediately notify the Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the Offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and

(c) The Offeror will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract. (FAR 52.223-01)

INSTRUCTIONS, CONDITIONS AND NOTICES TO BIDDERS

1. SOLICITATION DEFINITIONS - FORMAL ADVERTISING (APR 1984)

"Advertised," for the purposes of this solicitation, includes small business restricted advertising and other types of restricted advertising.

"Offer" means "bid" in formal advertising.

"Solicitation" means an invitation for bids in formal advertising.
(FAR 52.214-01)

2. ACKNOWLEDGMENT OF AMENDMENTS TO INVITATIONS FOR BIDS (APR 1984)

Bidders shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment, (b) by identifying the amendment number and date in the space provided for this purpose on the form for submitting a bid, or (c) by letter or telegram. The Government must receive the acknowledgment by the time and at the place specified for receipt of bids. (FAR 52.214-03)

3. FALSE STATEMENTS IN BIDS (APR 1984)

Bidders must provide full, accurate, and complete information as requested by this solicitation and its attachments. The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001. (FAR 52.214-04)

4. SUBMISSION OF BIDS (APR 1984)

(a) Bids and bid modifications shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation and (2) showing the time specified for receipt, the solicitation number, and the name and address of the bidder.

(b) Telegraphic bids will not be considered unless authorized by the solicitation; however, bids may be modified or withdrawn by written or telegraphic notice, if such notice is received by the time specified for receipt of bids. (FAR 52.214-05)

5. EXPLANATION TO PROSPECTIVE BIDDERS (APR 1984)

Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications etc., must request it in writing soon enough to allow a reply to reach all prospective bidders before the submission of their bids. Oral explanations or instructions

given before the award of a contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders. (FAR 52.214-36)

6. LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS (APR 1984)

(a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it-

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th); or

(2) Was sent by mail (or was a telegraphic bid if authorized), and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a) above.

(c) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the bid, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, bidders should request the postal clerks to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(d) The only acceptable evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.

(e) Notwithstanding paragraph (a) above, a late modification of an otherwise successful bid that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(f) A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and that person signs a receipt for the bid. (FAR 52.214-37)

7. ORDER OF PRECEDENCE-FORMAL ADVERTISING (APR 1984)

Any inconsistency in this solicitation shall be resolved by giving precedence in the following order: (a) the Schedule (excluding the specifications); (b) representations and other instructions; (c) contract clauses; (d) other documents, exhibits, and attachments; and (e) the specifications. (FAR 52.214-11)

8. PREPARATION OF BIDS - CONSTRUCTION (APR 1984)

(a) Bids must be (1) submitted on the forms furnished by the Government or on copies of those forms, and (2) manually signed. The person signing a bid must initial each erasure or change appearing on any bid form.

(b) The bid form may require bidders to submit bid prices for one or more items on various bases, including -

- (1) Lump sum bidding;
- (2) Alternate prices;
- (3) Units of construction; or
- (4) Any combination of subparagraphs (1) through (3) above.

(c) If the solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "no bid" in the space provided for any item on which no price is submitted.

(d) Alternate bids will not be considered unless this solicitation authorizes their submission. (FAR 52.214-18)

9. CONTRACT AWARD - FORMAL ADVERTISING - CONSTRUCTION (APR 1984)

(a) The Government will award a contract resulting from this solicitation to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government, price and other factors considered.

(b) The Government may reject any or all bids, and waive informalities or minor irregularities in bids received.

(c) The Government may accept any item or combination of items, unless doing so is precluded by a restrictive limitation in the solicitation or the bid. (FAR 52.214-19)

10. AVAILABILITY OF SPECIFICATIONS LISTED IN THE DOD INDEX OF SPECIFICATIONS AND STANDARDS (DODISS) (APR 1984)

Single copies of specifications cited in this solicitation may be obtained by submitting a written request to the supply point listed below. The request must contain the title of the specification, its

number, date, applicable amendment(s), and the solicitation or contract number. In case of urgency, telephone or telegraphic requests are acceptable. Voluntary standards, which are not available to offerors and contractors from Government sources, may be obtained from the organization responsible for their preparation, maintenance, or publication. (FAR 52.210-01)

Commanding Officer
U.S. Naval Publication and Forms Center
5801 Tabor Avenue
Philadelphia, PA 19120
Telex Number.....834295
Western Union Number.....710-670-1685
Telephone Number.....(215) 697-3321

11. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (APR 1984)

(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for Minority Participation for Each Trade	Goals for Female Participation for Each Trade
17.3%	6.9%

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographic area located outside of the covered area, the Contractor shall apply the goals established for the geographic area where the work is actually performed. Goals are published periodically in the Federal Register in notice form, and these notices may be obtained from any Office of Federal Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor,

or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the Director, Office of Federal Contract Compliance Programs, within 10 working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the -

- (1) Name, address, and telephone number of the subcontractor;
- (2) Employer identification number of the subcontract;
- (3) Estimated dollar amount of the subcontract;
- (4) Estimated starting and completion dates of the subcontract; and
- (5) Geographic area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is SMSA 6160 Philadelphia, PA-NJ.
(FAR 52.222-23)

12. DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER REPORTING (DEC 1980)

In the block with its name and address, the offeror should supply the Data Universal Numbering System (DUNS) Number applicable to that name and address. The DUNS Number should be preceded by "DUNS:". If the offeror does not have a DUNS Number, it may obtain one from any DUN and Bradstreet branch office. No offeror should delay the submission of its offer pending receipt of its DUNS Number. (DOD FAR SUPPL 52.204-7004)

13. INFORMATION REGARDING BID, PERFORMANCE, AND PAYMENT BONDS

(a) Bid Bonds: (Applicable only if bid is \$25,000 or greater.) Each bidder shall submit with its bid a Bid Bond (Standard Form 24) with good and sufficient surety or sureties acceptable to the Government, or other security as provided in FAR 52.228-31, Bid Guarantee, in the form of twenty percent (20%) of the bid price or \$3,000,000, whichever is less. The Bid Bond penalty may be expressed in terms of a percentage of the bid price or may be expressed in dollars and cents.

(b) Performance and Payment Bonds: (Applicable only if the contract is \$25,000 or greater.) Within 10 calendar days after the prescribed forms are presented to the bidder to whom award is made for signature, a written contract shall be executed and two bonds, each with good and sufficient surety or sureties acceptable to the Government, shall be furnished; namely a Performance Bond (Standard Form 25) and a Payment Bond (Standard Form 25A). The penal sums of such bonds will be as follows:

(1) Performance Bond: The penal sum of the performance bond shall equal one hundred percent (100%) of the contract price. The performance bond shall specifically provide coverage for taxes imposed by the United

States which are collected, deducted, or withheld from wages paid by the Contractor in carrying out the contract with respect to which such bond is furnished.

(2) Payment Bond:

(i) When the contract price is \$1,000,000 or less, the penal sum will be fifty percent (50%) of the contract price.

(ii) When the contract price is in excess of \$1,000,000 but not more than \$5,000,000, the penal sum shall be forty percent (40%) of the contract price.

(iii) When the contract price is more than \$5,000,000, the penal sum shall be \$2,500,000.

14. APPLICABILITY OF COMPLETE WAGE RATE DECISION

Read the following in conjunction with the Wage Rates:

In addition to the wage rates in this solicitation, the complete decision of the Secretary of Labor contains wage rates for other classes of laborers and mechanics. Because it does not appear that the work called for by this solicitation will require the use of such other classes, the wage rates applicable to them have not been reprinted herein. However, if any such classes of laborers or mechanics actually are employed to perform work under the contract resulting from this solicitation, payment will be required as specified in the clause entitled "Davis-Bacon Act" at Wage rates contained in the complete decision of the Secretary of Labor. Offerors desiring the complete decision may request it from the Contracting Officer.

15. EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE

Whenever a modification or equitable adjustment of contract price is required, the contractor's cost proposals for equipment ownership and operating expenses shall be determined in accordance with the requirements of contract clause EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE, contained in the Special Contract Requirements section. A copy of EP 1110-1-8 "Construction Equipment Ownership and Operating Expense Schedule" is available for review upon request at the Philadelphia District Office, Philadelphia, PA.

Any request for copies of EP 1110-1-8 (Volumes applicable to Regions I through IX) should be directed to the Government Printing Office as shown on the page attached hereto. (EFAR 52.2/9108(f))

16. PLANT AND EQUIPMENT

Each bidder shall, upon request of the Contracting Officer, furnish a list of plant and equipment available to the bidder and proposed for use in the contract work.