REQUEST FOR QUOTATIONS

PR10603624

Tirana on March 15, 2022

Dear prospective quoters:

The U.S. Embassy in Tirana is seeking quotes for Fuel for the Emergency Generators at Embassy Compound as per the quantity below:

**Fuel, Diesel (EN590-10PPM EURO 5)— QTY 20,000 liters**

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit price</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Fuel, Diesel (EN590-10PPM EURO 5)</td>
<td>20,000 liters</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The price must include transportation and be custom/tax free.

The delivery point is:

U.S. Embassy, Rruga Stavro Vinjau, No. 14;

The Embassy plans to award a Fixed Price with Economic Price Adjustment Purchase Order. The attached Terms and Conditions shall become part of the purchase order resulting from this Request for Quote. You are encouraged to make your quotation competitive. You are also cautioned against any collusion with other potential offerors with regard to price quotations to be submitted. This request for quotation does not commit the U.S. Embassy to make any award. The U.S. Embassy may cancel this RFQ or any part of it.

**If you are interested, please submit your quotation no later than March 30, 2022 at 11:00 AM at the email address:** procurementtirana@state.gov

Oral quotations will not be accepted.

Quotes will not be considered if Clauses on COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES REPRESENTATION will not be filled in and signed.
CLAUSES FOR PURCHASE ORDERS AND BLANKET PURCHASE AGREEMENTS
AWARDED BY OVERSEAS CONTRACTING ACTIVITIES
(Current thru FAC 2021-2 effective 11/2020)

COMMERCIAL ITEMS

FAR 52.252-2 Clauses Incorporated By Reference (FEB 1998)

This purchase order or BPA incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address: Acquisition.gov this address is subject to change.

DOSAR clauses may be accessed at: https://acquisition.gov/dosar

FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1) CLAUSES

<table>
<thead>
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<th>NUMBER</th>
<th>TITLE</th>
<th>DATE</th>
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</thead>
<tbody>
<tr>
<td>52.204-7</td>
<td>SYSTEM FOR AWARD MANAGEMENT</td>
<td>OCT 2018</td>
</tr>
<tr>
<td>52.204-9</td>
<td>Personal Identity Verification of Contractor Personnel (if contractor requires physical access to a federally-controlled facility or access to a Federal information system)</td>
<td>JAN 2011</td>
</tr>
<tr>
<td>52.204-13</td>
<td>SYSTEM FOR AWARD MANAGEMENT MAINTENANCE</td>
<td>OCT 2018</td>
</tr>
<tr>
<td>52.204-18</td>
<td>COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE</td>
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<tr>
<td>52.212-4</td>
<td>Contract Terms and Conditions – Commercial Items (Alternate I (MAY 2014) of 52.212-4 applies if the order is time-and-materials or labor-hour)</td>
<td>OCT 2018</td>
</tr>
<tr>
<td>52.225-19</td>
<td>Contractor Personnel in a Diplomatic or Consular Mission Outside the United States (applies to services at danger pay posts only)</td>
<td>MAY 2020</td>
</tr>
<tr>
<td>52.227-19</td>
<td>Commercial Computer Software License (if order is for software)</td>
<td>DEC 2007</td>
</tr>
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<td>52.228-3</td>
<td>Workers’ Compensation Insurance (Defense Base Act) (if order is for services and contractor employees are covered by Defense Base Act insurance)</td>
<td>JUL 2014</td>
</tr>
<tr>
<td>52.228-4</td>
<td>Workers’ Compensation and War-Hazard Insurance (if order is for services and contractor employees are not covered by</td>
<td>APR 1984</td>
</tr>
</tbody>
</table>
52.212-5 **CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS-COMMERCIAL ITEMS (NOV 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).


(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:

[Contracting Officer check as appropriate.]

- (2) **52.203-13**, Contractor Code of Business Ethics and Conduct (JUN 2020) (**41 U.S.C. 3509**).
- (5) [Reserved].
- (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**).
- (10) [Reserved].
(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).
(13) [Reserved]
(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)).
(18) (i) 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)).
(22) (i) 52.219-28, Post Award Small Business Program Rerepresentation (NOV 2020) (15 U.S.C. 632(a)(2)).
(23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business 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 (Mar2020) (15 U.S.C. 637(m)).
(26) 52.219-33, Nonmanufacturer Rule (MAR 2020) (15 U.S.C. 637(a)(17)).
(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 (JUL 2014) of 52.222-36.


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


(36) 52.222-54, Employment Eligibility Verification (OCT 2015). (Executive Order 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).


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

(ii) Alternate I (Jun2014) of 52.223-14.


(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.

(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 (Jun2016) (E.O. 13693).


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


(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.


(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).

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

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

(55) 52.229-12, 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)).


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


(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:

[Contracting Officer check as appropriate.]


(7) 52.222-55, Minimum Wages Under Executive Order 13658 (Nov 2020).


(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-

(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 2020) (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.
(vi) 52.222-21, Prohibition of Segregated Facilities (APR 2015).
(vii) 52.222-26, Equal Opportunity (SEP 2015) (E.O.11246).
(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.
   (B) Alternate I (MAR 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
(xvi) 52.222-54, Employment Eligibility Verification (OCT 2015) (E.O. 12989).
(xvii) 52.222-55, Minimum Wages Under Executive Order 13658 (NOV 2020).
   (B) Alternate I (JAN 2017) of 52.224-3.
(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)

DEPARTMENT OF STATE ACQUISITION REGULATION (48 CFR Chapter 6) CLAUSES

<table>
<thead>
<tr>
<th>NUMBER</th>
<th>TITLE</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>652.225-71</td>
<td>Section 8(a) of the Export Administration Act of 1979, As Amended (if order exceeds simplified acquisition threshold)</td>
<td>AUG 1999</td>
</tr>
<tr>
<td>652.229-70</td>
<td>Excise Tax Exemption Statement for Contractors Within the United States (for supplies to be delivered to an overseas post)</td>
<td>JUL 1988</td>
</tr>
<tr>
<td>652.229-71</td>
<td>Personal Property Disposition at Posts Abroad</td>
<td>AUG 1999</td>
</tr>
<tr>
<td>652.237-72</td>
<td>Observance of Legal Holidays and Administrative Leave (for services where performance will be on-site in a Department of State facility)</td>
<td>FEB 2015</td>
</tr>
<tr>
<td>652.239-71</td>
<td>Security Requirements for Unclassified Information Technology Resources (for orders that include information technology resources or services in which the contractor will</td>
<td>SEP 2007</td>
</tr>
</tbody>
</table>
The following clause is provided in full text, and is applicable for orders for services that will require contractor employees to perform on-site at a DOS location and/or that require contractor employees to have access to DOS information systems:

**652.204-70 DEPARTMENT OF STATE PERSONAL IDENTIFICATION CARD POLICY AND PROCEDURES (FEB 2015)**

(a) The Contractor shall comply with the Department of State (DOS) Personal Identification Card Policy and Procedures for all employees performing under this contract who require frequent and continuing access to DOS facilities, or information systems. The Contractor shall insert the substance of this clause in all subcontracts when the subcontractor's employees will require frequent and continuing access to DOS facilities, or information systems.

(b) The DOS Personal Identification Card Policy and Procedures may be accessed at: [http://www.state.gov/m/ds/rls/rpt/c21664.htm](http://www.state.gov/m/ds/rls/rpt/c21664.htm).

(End of clause)

**DEPARTMENT OF STATE ACQUISITION REGULATION (48 CFR Chapter 6) CLAUSES**

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<thead>
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<td>652.229-71</td>
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<td>APR 2004</td>
</tr>
<tr>
<td>652.239-71</td>
<td>Security Requirements for Unclassified Information Technology Resources (for orders that include information technology resources or services in which the contractor will have physical or electronic access to Department information that directly supports the mission of the Department)</td>
<td>SEP 2007</td>
</tr>
<tr>
<td>652.242-70</td>
<td>Contracting Officer’s Representative (if a COR will be named for the order) Fill-in for paragraph b: “The COR is _________________”</td>
<td>AUG 1999</td>
</tr>
<tr>
<td>652.242-71</td>
<td>Notice of Shipments</td>
<td>JUL 1988</td>
</tr>
<tr>
<td>652.242-73</td>
<td>Authorization and Performance</td>
<td>AUG 1999</td>
</tr>
<tr>
<td>652.243-70</td>
<td>Notices</td>
<td>AUG 1999</td>
</tr>
<tr>
<td>652.247-71</td>
<td>Shipping Instruction</td>
<td>FEB 2015</td>
</tr>
</tbody>
</table>

The following clause is provided in full text, and is applicable for orders for services that will require contractor employees to perform on-site at a DOS location and/or that require contractor employees to have access to DOS information systems:

**652.204-70  Department of State Personal Identification Card Issuance Procedures (MAY 2011)**

(a) The Contractor shall comply with the Department of State (DOS) Personal Identification Card Issuance Procedures for all employees performing under this contract who require frequent and continuing access to DOS facilities, or information systems. The Contractor shall insert this clause in all subcontracts when the subcontractor’s employees will require frequent and continuing access to DOS facilities, or information systems.
(b) The DOS Personal Identification Card Issuance Procedures may be accessed at http://www.state.gov/m/ds/rls/rpt/c21664.htm.

(End of clause)

EVALUATION FACTORS

Award will be made to the lowest priced, acceptable, responsible offeror. The Government reserves the right to reject proposals that are unreasonably low or high in price.

Acceptability will be determined by assessing the offeror's compliance with the terms of the RFQ. Responsibility will be determined by analyzing whether the apparent successful offeror complies with the requirements of FAR 9.1, including:

- Adequate financial resources or the ability to obtain them;
- Ability to comply with the required performance period, taking into consideration all existing commercial and governmental business commitments;
- Satisfactory record of integrity and business ethics;
- Necessary organization, experience, and skills or the ability to obtain them;
- Necessary equipment and facilities or the ability to obtain them; and
- Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

<table>
<thead>
<tr>
<th>COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES REPRESENTATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONTRACTOR’S NAME:</td>
</tr>
<tr>
<td>CONTRACTOR’S AUTHORIZED REPRESENTATIVE:</td>
</tr>
<tr>
<td>SIGNATURE:</td>
</tr>
<tr>
<td>DATE:</td>
</tr>
</tbody>
</table>
52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020)

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

(a) Definitions. As used in this provision—

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

(b) Prohibition.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

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

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

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

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

(d) Representation. The Offeror represents that—

(1) It □ will, □ will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds “will” in paragraph (d)(1) of this section; and

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

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

(e) Disclosures.

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

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

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

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

(ii) For covered services—

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

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

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

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include
entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a
distributor, if known);

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

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

(ii) For covered services—

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

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

(End of provision)

As prescribed in 4.2105(b), insert the following clause:

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video
Surveillance Services or Equipment (Aug 2020)

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

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

Covered telecommunications equipment or services means—

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

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

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

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

Critical technology means—

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

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

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

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

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

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


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

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

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

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

(b) Prohibition.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.
This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

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

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

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

(d) **Reporting requirement.**

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at [https://dibnet.dod.mil](https://dibnet.dod.mil). For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at [https://dibnet.dod.mil](https://dibnet.dod.mil).

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

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

   (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services. (e) **Subcontracts.** The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

(End of clause)