

**PART IV – REPRESENTATIONS AND INSTRUCTIONS**

**SECTION K – REPRESENTATIONS CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS**

**K.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract 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 a copy of the full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): <http://www.arnet.gov/far>.

Federal Acquisition Regulation (48 CFR, APR 1984) Clauses

<u>Clause No.</u>	<u>Clause Title</u>	<u>Date</u>
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions	APR 1991

**K.2 52.203-02 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)**

(a) The offeror certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose of 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 sealed bid 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 paragraphs (a)(1) through (a)(3) of this provision; 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 paragraphs (a)(1) through (a)(3) of this provision \_\_\_\_\_ [insert full

**Request for Proposal TQD-RC-03-0001**

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

49 (ii) As an authorized agent, does certify that the principals named in subdivision  
50 (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to  
51 paragraphs (a)(1) through (a)(3) of this provision; and

52 (iii) As an agent, has not personally participated, and will not participate, in any  
53 action contrary to paragraphs (a)(1) through (a)(3) of this provision.

54 (c) If the offeror deletes or modifies paragraph (a)(2) of this provision, the offeror must  
55 furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

56

57 **K.3 52.204-03 TAXPAYER IDENTIFICATION (OCT 1998)**

58

59 (a) *Definitions.* "Common parent," as used in this provision, means that corporate entity that  
60 owns or controls an affiliated group of corporations that files its Federal income tax returns on a  
61 consolidated basis, and of which the offeror is a member.

62 "Taxpayer Identification Number (TIN)," as used in this provision, means the number required  
63 by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other  
64 returns. The TIN may be either a Social Security Number or an Employer Identification Number.

65 (b) All offerors must submit the information required in paragraphs (d) through (f) of this  
66 provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d),  
67 reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations  
68 issued by the IRS. If the resulting contract is subject to the payment reporting requirements  
69 described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to  
70 furnish the information may result in a 31 percent reduction of payments otherwise due under the  
71 contract.

72 (c) The TIN may be used by the Government to collect and report on any delinquent  
73 amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If  
74 the resulting contract is subject to the payment reporting requirements described in FAR 4.904,  
75 the TIN provided hereunder may be matched with IRS records to verify the accuracy of the  
76 offeror's TIN.

77 (d) *Taxpayer Identification Number (TIN).*

78  TIN: \_\_\_\_\_.

79  TIN has been applied for.

80  TIN is not required because:

81  Offeror is a nonresident alien, foreign corporation, or foreign partnership that  
82 does not have income effectively connected with the conduct of a trade or business  
83 in the United States and does not have an office or place of business or a fiscal  
84 paying agent in the United States;

85  Offeror is an agency or instrumentality of a foreign government;

86  Offeror is an agency or instrumentality of the Federal Government.

87 (e) *Type of organization.*

88  Sole proprietorship;

89  Partnership;

90  Corporate entity (not tax-exempt);

91  Corporate entity (tax-exempt);

92  Government entity (Federal, State, or local);

93  Foreign government;

**Request for Proposal TQD-RC-03-0001**

94 [ ] International organization per 26 CFR 1.6049-4;  
95 [ ] Other \_\_\_\_\_.

96  
97 (f) *Common parent.*

98 [ ] Offeror is not owned or controlled by a common parent as defined in paragraph  
99 (a) of this provision.

100 [ ] Name and TIN of common parent:

101 Name \_\_\_\_\_

102 TIN \_\_\_\_\_

103  
104 **K.4 52.204-05 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS**  
105 **(MAY 1999)**

106  
107 (a) *Definition.* "Women-owned business concern," as used in this provision, means a concern  
108 that is at least 51 percent owned by one or more women; or in the case of any publicly owned  
109 business, at least 51 percent of its stock is owned by one or more women; and whose  
110 management and daily business operations are controlled by one or more women.

111  
112 (b) *Representation.* [Complete only if the offeror is a women-owned business concern and has not  
113 represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, Small Business Program  
114 Representations, of this solicitation.] The offeror represents that it [ ] is a women-owned business  
115 concern.

116  
117 **K.5 52.209-05 CERTIFICATION REGARDING DEBARMENT, SUSPENSION,**  
118 **PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (DEC 2001)**  
119

120 (a)(1) The Offeror certifies, to the best of its knowledge and belief, that-

121 (i) The Offeror and/or any of its Principals-

122 (A) Are [ ] are not [ ] presently debarred, suspended, proposed for debarment,  
123 or declare ineligible for the award of contracts by any Federal agency;

124 (B) Have [ ] have not [ ], within a three-year period preceding this offer, been  
125 convicted of or had a civil judgment rendered against them for: commission of fraud or a  
126 criminal offense in connection with obtaining, attempting to obtain, or performing a public  
127 (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes  
128 relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery,  
129 falsification or destruction of

130 records, making false statements, tax evasion, or receiving stolen property; and

131 (C) Are [ ] are not [ ] presently indicted for, or otherwise criminally or civilly  
132 charged by a governmental entity with, commission of any of the offenses enumerated in  
133 paragraph

134 (a)(1)(i)(B) of this provision.

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

137 (2) "Principals," for the purposes of this certification, means officers; directors; owners;  
138 partners; and, persons having primary management or supervisory responsibilities within a  
139 business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business  
140 segment, and similar positions).

141  
142 This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States  
143 and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject  
144 to Prosecution Under Section 1001, Title 18, United States Code.

145 (b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any  
146 time prior to contract award, the Offeror learns that its certification was erroneous when  
147 submitted or has become erroneous by reason of changed circumstances.

148 (c) A certification that any of the items in paragraph (a) of this provision exists will not  
149 necessarily result in withholding of an award under this solicitation. However, the certification  
150 will be considered in connection with a determination of the Offeror's responsibility. Failure of  
151 the Offeror to furnish a certification or provide such additional information as requested by the  
152 Contracting Officer may render the Offeror non-responsible.

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

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

162

163 **K.6 52.214-16 MINIMUM BID ACCEPTANCE PERIOD (APR 1984)**

164

165 (a) "Acceptance period," as used in this provision, means the number of calendar days  
166 available to the Government for awarding a contract from the date specified in this solicitation  
167 for receipt of bids.

168 (b) This provision supersedes any language pertaining to the acceptance period that may  
169 appear elsewhere in this solicitation.

170 (c) The Government requires a minimum acceptance period of **180** calendar days.

171 (d) In the space provided immediately below, bidders may specify a longer acceptance  
172 period than the Government's minimum requirement. The bidder allows the following  
173 acceptance period: \_\_\_\_\_ calendar days.

174 (e) A bid allowing less than the Government's minimum acceptance period will be rejected.

175 (f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid,  
176 if that bid is accepted in writing within-

177 (1) The acceptance period stated in paragraph (c) of this clause; or

178 (2) Any longer acceptance period stated in paragraph (d) of this clause.

179

180 **K.7 52.215-06 PLACE OF PERFORMANCE (OCT 1997)**

181

182 (a) The offeror or respondent, in the performance of any contract resulting from this  
183 solicitation, [ ] intends, [ ] does not intend [*check applicable block*] to use one or more plants or  
184 facilities located at a different address from the address of the offeror or respondent as indicated  
185 in this proposal or response to request for information.

186 (b) If the offeror or respondent checks "intends" in paragraph (a) of this provision, it shall  
187 insert in the following spaces the required information:

188

Place of Performance (Street Address, City, State, County, Zip Code)	Name and Address of Owner and Operator of the Plant or Facility if Other than Offeror or Respondent
_____	_____
_____	_____

189

190

191 **K.8 52.215-07 ANNUAL REPRESENTATIONS AND CERTIFICATIONS -**  
 192 **NEGOTIATION (OCT 1997)**

193

194 The offeror has *[check the appropriate block]*:

195  (a) Submitted to the contracting office issuing this solicitation, annual representations and  
 196 certifications dated \_\_\_\_\_ *[insert date of signature on submission]* that are  
 197 incorporated herein by reference, and are current, accurate, and complete as of the date of this  
 198 proposal, except as follows *[insert changes that affect only this proposal; if "none," so state]*:

199  (b) Enclosed its annual representations and certifications.

200

201 **K.9 52.219-22 SMALL DISADVANTAGED BUSINESS STATUS (OCT 1999)**

202

203 (a) *General.* This provision is used to assess an offeror's small disadvantaged business status  
 204 for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as  
 205 a small disadvantaged business for general statistical purposes is covered by the provision at  
 206 FAR 52.219-1, Small Business Program Representation.

207 (b) Representations.

208 (1) *General.* The offeror represents, as part of its offer, that it is a small business under  
 209 the size standard applicable to this acquisition; and either-

210  (i) It has received certification by the Small Business Administration as a small  
 211 disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

212 (A) No material change in disadvantaged ownership and control has occurred  
 213 since its certification;

214 (B) Where the concern is owned by one or more disadvantaged individuals, the  
 215 net worth of each individual upon whom the certification is based does not exceed \$750,000 after  
 216 taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

217 (C) It is identified, on the date of its representation, as a certified small  
 218 disadvantaged business concern in the database maintained by the Small Business  
 219 Administration (PRO-Net); or

220  (ii) It has submitted a completed application to the Small Business  
 221 Administration or a Private Certifier to be certified as a small disadvantaged business concern in  
 222 accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that  
 223 no material change in disadvantaged ownership and control has occurred since its application  
 224 was submitted.

225 (2) [ ] *For Joint Ventures.* The offeror represents, as part of its offer, that it is a joint  
226 venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in  
227 paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is  
228 participating in the joint venture. [*The offeror shall enter the name of the small disadvantaged business*  
229 *concern that is participating in the joint venture: \_\_\_\_\_.*]

230 (c) *Penalties and Remedies.* Anyone who misrepresents any aspects of the disadvantaged status  
231 of a concern for the purposes of securing a contract or subcontract shall-

232 (1) Be punished by imposition of a fine, imprisonment, or both;

233 (2) Be subject to administrative remedies, including suspension and debarment; and

234 (3) Be ineligible for participation in programs conducted under the authority of the  
235 Small Business Act.

236  
237 **K.10 552.219-72 PREPARATION, SUBMISSION, AND NEGOTIATION OF**  
238 **SUBCONTRACTING PLANS (SEP 1999)**  
239

240 (a) An offeror, other than a small business concern, submitting an offer that exceeds  
241 \$500,000 (\$1,000,000 for construction) shall submit a subcontracting plan with its initial offer.  
242 The subcontracting plan will be negotiated concurrently with price and any required technical  
243 and management proposals, unless the offeror submits a previously-approved commercial  
244 products plan.

245 (b) Maximum practicable utilization of small, HUBZone small, small disadvantaged, and  
246 women-owned small business concerns as subcontractors is a matter of national interest with  
247 both social and economic benefits. The General Services Administration (GSA) expects that an  
248 offeror's subcontracting plan will reflect a commitment to assuring that small, HUBZone small,  
249 small disadvantaged, and women-owned small business concerns are provided the maximum  
250 practicable opportunity, consistent with efficient contract performance, to participate as  
251 subcontractors in the performance of the resulting contract. An offeror submitting a commercial  
252 products plan can reflect this commitment through subcontracting opportunities it provides that  
253 relate to the offeror's production generally; i.e., for both its commercial and Government  
254 business.

255 (c) GSA believes that this potential contract provides significant opportunities for the use  
256 of small, HUBZone small, small disadvantaged, and women-owned small business concerns as  
257 subcontractors. Consequently, in addressing the eleven elements described at FAR 52.219-9(d)  
258 of the clause in this contract entitled Small Business Subcontracting Plan, the offeror shall:

259 (1) Demonstrate that its subcontracting plan represents a creative and innovative  
260 program for involving small, HUBZone small, small disadvantaged, and women-owned small  
261 business concerns in performing the contract.

262 (2) Include a description of the offeror's subcontracting strategies used in any previous  
263 contracts, significant achievements, and how this plan will build upon those earlier  
264 achievements.

265 (3) Demonstrate through its plan that it understands the small business subcontracting  
266 program's objectives and GSA's expectations, and it is committed to taking those actions  
267 necessary to meet these goals or objectives.

268 (d) In determining the acceptability of any subcontracting plan, the Contracting Officer  
269 will take each of the following actions:  
270

271 (1) Review the plan to verify that the offeror demonstrates an understanding of the  
272 small business subcontracting program's objectives and GSA's expectations with respect to the  
273 program and has included all the information, goals, and assurances required by FAR 52.219-9.

274 (2) Consider previous goals and achievements of contractors in the same industry.

275 (3) Consider information and potential sources obtained from agencies administering  
276 national and local preference programs and other advocacy groups in evaluating whether the  
277 goals stated in the plan adequately reflect the anticipated potential for subcontracting to small,  
278 HUBZone small, small disadvantaged, and women-owned small business concerns.

279 (4) Review the offeror's description of its strategies, historical performance and  
280 significant achievements in placing subcontracts for the same or similar products or services with  
281 small, HUBZone small, small disadvantaged, and women-owned small business concerns. The  
282 offeror's description can apply to commercial as well as previous Government contracts.

283 (e) Failure to submit an acceptable subcontracting plan and/or correct deficiencies in a  
284 plan within the time specified by the Contracting Officer shall make the offeror ineligible for  
285 award.

286

287 **K.11 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS**  
288 **(FEB 1999)**

289

290 The offeror represents that-

291 (a) It [ ] has, [ ] has not participated in a previous contract or subcontract subject the Equal  
292 Opportunity clause of this solicitation;

293 (b) It [ ] has, [ ] has not filed all required compliance reports; and

294 (c) Representations indicating submission of required compliance reports, signed by  
295 proposed subcontractors, will be obtained before subcontract awards.

296

297 **K.12 52.222-25 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)**

298

299 The offeror represents that-

300 (a) It [ ] has developed and has on file, [ ] has not developed and does not have on file, at  
301 each establishment, affirmative action programs required by the rules and regulations of the  
302 Secretary of Labor (41 CFR 60-1 and 60-2); or

303 (b) It [ ] has not previously had contracts subject to the written affirmative action programs  
304 requirement of the rules and regulations of the Secretary of Labor.

305

306 **K.13 52.222.38 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING**  
307 **REQUIREMENTS (DEC 2001)**

308

309 By submission of its offer, the offeror represents that, if it is subject to the reporting requirements  
310 of 38 U.S.C. 4212(d) (*i.e.*, if it has any contract containing Federal Acquisition Regulation clause  
311 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era,  
312 and Other Eligible Veterans), it has submitted the most recent VETS-100 Report required by that  
313 clause.

314

315

316

317

318

319 **K.14 52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING**  
320 **(AUG 2003)**

321  
322 (a) Executive Order 13148, of April 21, 2000, Greening the Government through  
323 Leadership in Environmental Management, requires submission of this certification as a  
324 prerequisite for contract award.

325 (b) By signing this offer, the offeror certifies that-

326 (1) As the owner or operator of facilities that will be used in the performance of this  
327 contract that are subject to the filing and reporting requirements described in section 313 of the  
328 Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023)  
329 and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror  
330 will file and continue to file for such facilities for the life of the contract the Toxic Chemical  
331 Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section  
332 6607 of PPA; or

333 (2) None of its owned or operated facilities to be used in the performance of this  
334 contract is subject to the Form R filing and reporting requirements because each such facility is  
335 exempt for at least one of the following reasons: [*Check each block that is applicable.*]

336  (i) The facility does not manufacture, process, or otherwise use any toxic  
337 chemicals listed in 40 CFR 372.65;

338  (ii) The facility does not have 10 or more full-time employees as specified in  
339 section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

340  (iii) The facility does not meet the reporting thresholds of toxic chemicals  
341 established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate  
342 thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with  
343 EPA);

344  (iv) The facility does not fall within the following Standard Industrial  
345 Classification (SIC) codes or their corresponding North American Industry Classification System  
346 sectors:

347 (A) Major group code 10 (except 1011, 1081, and 1094.

348 (B) Major group code 12 (except 1241).

349 (C) Major group codes 20 through 39.

350 (D) Industry code 4911, 4931, or 4939 (limited to facilities that combust  
351 coal and/or oil for the purpose of generating power for distribution in  
352 commerce).

353 (E) Industry code 4953 (limited to facilities regulated under the Resource  
354 Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, *et seq.*), or  
355 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent  
356 recovery services on a contract or fee basis); or

357  (v) The facility is not located in the United States or its outlying areas..

358  
359 **K.15 52.227-15 REPRESENTATION OF LIMITED RIGHTS DATA AND**  
360 **RESTRICTED COMPUTER SOFTWARE (MAY 1999)**

361  
362 (a) This solicitation sets forth the work to be performed if a contract award results, and the  
363 Government's known delivery requirements for data (as defined in FAR 27.401). Any resulting  
364 contract may also provide the Government the option to order additional data under the  
365 Additional Data Requirements clause at 52.227-16 of the FAR, if included in the contract. Any

366 data delivered under the resulting contract will be subject to the Rights in Data-General clause at  
367 52.227-14 that is to be included in this contract. Under the latter clause, a Contractor may  
368 withhold from delivery data that qualify as limited rights data or restricted computer software,  
369 and deliver form, fit, and function data in lieu thereof. The latter clause also may be used with its  
370 Alternates II and/or III to obtain delivery of limited rights data or restricted computer software,  
371 marked with limited rights or restricted rights notices, as appropriate. In addition, use of  
372 Alternate V with this latter clause provides the Government the right to inspect such data at the  
373 Contractor's facility.

374 (b) As an aid in determining the Government's need to include Alternate II or Alternate III  
375 in the clause at 52.227-14, Rights in Data-General, the offeror shall complete paragraph (c) of  
376 this provision to either state that none of the data qualify as limited rights data or restricted  
377 computer software, or identify, to the extent feasible, which of the data qualifies as limited rights  
378 data or restricted computer software. Any identification of limited rights data or restricted  
379 computer software in the offeror's response is not determinative of the status of such data should  
380 a contract  
381 be awarded to the offeror.

382 (c) The offeror has reviewed the requirements for the delivery of data or software and state  
383 [*offeror check appropriate block*]-

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

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

388 \_\_\_\_\_  
389 \_\_\_\_\_  
390 \_\_\_\_\_

391 Note: "Limited rights data" and "Restricted computer software" are defined in the contract clause  
392 entitled "Rights in Data-General."  
393

394 **K.16 552.252-05 AUTHORIZED DEVIATIONS IN PROVISIONS (DEVIATION FAR**  
395 **52.252-5) (SEP 1999)**  
396

397 (a) Deviations to FAR provisions.

398 (1) This solicitation indicates any authorized deviation to a Federal Acquisition  
399 Regulation (48 CFR Chapter 1) provision by the addition of "(DEVIATION)" after the date of  
400 the provision, if the provision is not published in the General Services Administration  
401 Acquisition Regulation (48 CFR Chapter 5).

402 (2) This solicitation indicates any authorized deviation to a Federal Acquisition  
403 Regulation (FAR) provision that is published in the General Services Administration Acquisition  
404 Regulation by the addition of "(DEVIATION (FAR provision no.))" after the date of the  
405 provision.

406 (b) Deviations to GSAR provisions. This solicitation indicates any authorized deviation to  
407 a General Services Administration Acquisition Regulation provision by the addition of  
408 "(DEVIATION)" after the date of the provision.

409 (c) "Substantially the same as" provisions. Changes in wording of provisions prescribed  
410 for use on a "substantially the same as" basis are not considered deviations.