

**National Aeronautics and Space Administration**

**1852.213-70**

its bid, as well as on other information reasonably available to the contracting activity.

(2) Caution to Offerors: The contracting office is not responsible for locating or securing any information not identified in the bid and reasonably available to the contracting office. Accordingly, to ensure that sufficient information is available, the offeror must furnish as a part of its bid all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the contracting office to (i) determine whether the product offered meets the salient characteristics requirements of the solicitation and (ii) establish exactly what the offeror proposes to furnish and what the Government would be binding itself to purchase by making an award. The information furnished may include specific references to information previously furnished or to information otherwise available to the contracting office.

(3) If the offeror proposes to modify a product so as to make it conform to the requirements of the solicitation, it shall (i) include in the bid a clear description of the proposed modifications and (ii) clearly mark any descriptive material to show them.

(4) If this is a sealed-bid acquisition, modifications proposed after bid opening to make a product conform to a brand name product referenced in the solicitation will not be considered.

(End of provision)

[54 FR 28340, July 5, 1989, as amended at 56 FR 12460, Mar. 26, 1991]

**1852.211-70 Packaging, handling, and transportation.**

As prescribed in 1811.404-70, insert the following clause:

PACKAGING, HANDLING, AND TRANSPORTATION  
(JUN 2000)

(a) The Contractor shall shall comply with NPG 6000.1E, "Requirements for Packaging, Handling, and Transportation for Aeronautical and Space Systems, Equipment, and Associated Components", dated April 26, 1999, as may be supplemented by the statement of work or specifications of this contract, for all items designated as Class I, II, or III.

(b) The Contractor's packaging, handling, and transportation procedures may be used, in whole or in part, subject to the written approval of the Contracting Officer, provided (1) the Contractor's procedures are not in conflict with any requirements of this contract, and (2) the requirements of this contract shall take precedence in the event of any conflict with the Contractor's procedures.

(c) The Contractor must place the requirements of this clause in all subcontracts for items that will become components of deliverable Class I, II, or III items.

(End of clause)

[65 FR 37062, June 13, 2000]

**1852.212-70 Notice of delay.**

As prescribed at 1812.104-70(a), insert the following clause:

NOTICE OF DELAY (DEC 1988)

If, because of technical difficulties, the Contractor becomes unable to complete the contract work at the time specified, notwithstanding the exercise of good faith and diligent efforts in performing the work called for under this contract, the Contractor shall give the Contracting Officer written notice of the anticipated delay and the reasons for it. The notice and reasons shall be delivered promptly after the condition creating the anticipated delay becomes known to the Contractor but in no event less than 45 days before the completion date specified in this contract, unless otherwise permitted by the Contracting Officer. When notice is given, the Contracting Officer may extend the time specified in the Schedule for such period as is deemed advisable.

(End of clause)

**1852.212-74 Period of performance.**

As prescribed in 1812.104-70(e), insert the following clause:

PERIOD OF PERFORMANCE (DEC 1988)

The period of performance of this contract shall be [Insert period of performance dates].

(End of clause)

**1852.213-70 Offeror Representations and Certifications—Other Than Commercial Items.**

As prescribed in 1813.302-570, insert the following provision:

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—OTHER THAN COMMERCIAL ITEMS—  
(JUL 2002)

(a) Definitions. As used in this provision—  
"Emerging small business" means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

"Forced or indentured child labor" means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its

nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

“Service-disabled veteran-owned small business concern”—Means a small business concern—

(1) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(2) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

“Small business concern” 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 criteria in 13 CFR part 121 and size standards in this solicitation.

“Veteran-owned small business concern” means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned small business concern” means a small business concern—

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(b) Taxpayer Identification Number (TIN) (26 U.S.C. 6109, 31 U.S.C. 7701).

(1) All offerors must submit the information required in paragraphs (b)(3) through (b)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror’s relation-

ships with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror’s TIN.

(3) Taxpayer Identification Number (TIN).

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

TIN has been applied for.

TIN is not required because:

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

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government.

(4) Type of organization.

Sole proprietorship;

Partnership;

Corporate entity (not tax-exempt);

Corporate entity (tax-exempt);

Government entity (Federal, State, or local);

Foreign government;

International organization per 26 CFR 1.6049-4;

Other \_\_\_\_\_.

(5) Common parent.

Offeror is not owned or controlled by a common parent;

Name and TIN of common parent:

Name \_\_\_\_\_.

TIN \_\_\_\_\_.

(c) Offerors must complete the following representations when the resulting contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia. Check all that apply.

(1) Small business concern. The offeror represents as part of its offer that it  is,  is not a small business concern.

(2) Veteran-owned small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it  is,  is not a veteran-owned small business concern.

(3) Service-disabled veteran-owned small business concern. [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it  is,  is not a service-disabled veteran-owned small business concern.

(4) Small disadvantaged business concern. [Complete only if the offeror represented

itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, for general statistical purposes, that it [ ] is, [ ] is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) Women-owned small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [ ] is, [ ] is not a women-owned small business concern.

(6) Small Business Size for the Small Business Competitiveness

Demonstration Program and for the Targeted Industry Categories under the Small Business Competitiveness Demonstration Program. [Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.]

(i) [Complete only for solicitations indicated as being set-aside for emerging small businesses in one of the four designated industry groups (DIGs).] The offeror represents as part of its offer that it [ ] is, [ ] is not an emerging small business.

(ii) [Complete only for solicitations indicated as being for one of the targeted industry categories (TICs) or four designated industry groups (DIGs).] Offeror represents as follows:

(A) Offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) Offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following):

Number of employees	Average annual gross revenues
<input type="checkbox"/> 50 or fewer	<input type="checkbox"/> \$1 million or less.
<input type="checkbox"/> 51-100	<input type="checkbox"/> \$1,000,001-\$2 million.
<input type="checkbox"/> 101-250	<input type="checkbox"/> \$2,000,001-\$3.5 million.
<input type="checkbox"/> 251-500	<input type="checkbox"/> \$3,500,001-\$5 million.
<input type="checkbox"/> 501-750	<input type="checkbox"/> \$5,000,001-\$10 million.
<input type="checkbox"/> 751-1000	<input type="checkbox"/> \$10,000,001-\$17 million.
<input type="checkbox"/> Over 1000	<input type="checkbox"/> Over \$17 million.

(7) HUBZone small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that—

(i) It [ ] is, [ ] is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Adminis-

tration in accordance with 13 CFR part 126; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (c)(11)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(8) (Complete if dollar value of the resultant contract is expected to exceed \$25,000 and the offeror has represented itself as disadvantaged in paragraph (c)(4) of this provision.) [The offeror shall check the category in which its ownership falls]:

- Black American.
- Hispanic American.
- Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).
- Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).
- Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).
- Individual/concern, other than one of the preceding.

(d) Representations required to implement provisions of Executive Order 11246—

(1) Previous contracts and compliance. The offeror represents that—

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

(ii) It [ ] has, [ ] has not filed all required compliance reports.

(2) Affirmative Action Compliance. The offeror represents that—

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

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

(e) Buy American Act Certificate. (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American Act—

Supplies, is included in this solicitation.)  
(1) The offeror certifies that each end product, except those listed in paragraph (e)(2) of this provision, is a domestic end product as defined in the clause of this solicitation entitled “Buy American Act—Supplies” and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

(2) Foreign End Products:

*Line Item No. and Country of Origin*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR part 25.

(f)(1) Buy American Act—North American Free Trade Agreement— Israeli Trade Act Certificate. (Applies only if the clause at FAR 52.225-3, Buy American Act— North American Free Trade Agreement—Israeli Trade Act, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (f)(1)(ii) or (f)(1)(iii) of this provision, is a domestic end product as defined in the clause of this solicitation entitled “Buy American Act—North American Free Trade Agreement—Israeli Trade Act” and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States.

(ii) The offeror certifies that the following supplies are NAFTA country end products or Israeli end products as defined in the clause of this solicitation entitled “Buy American Act—North American Free Trade Agreement—Israeli Trade Act: NAFTA Country or Israeli End Products:

*Line Item No. and Country of Origin*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
[List as necessary]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (f)(1)(ii) of this provision) as defined in the clause of this solicitation entitled “Buy American Act—North American Free Trade Agreement— Israeli Trade Act.” The offeror shall list as other foreign end products those end products

manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products:

*Line Item No. and Country of Origin*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR part 25.

(2) Buy American Act—North American Free Trade Agreements—Israeli Trade Act Certificate, Alternate I. If Alternate I to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (f)(1)(ii) for paragraph (f)(1)(ii) of the basic provision:

(f)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled “Buy American Act—North American Free Trade Agreement—Israeli Trade Act”:

Canadian End Products:

*Line Item No.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(List as necessary)

(3) Buy American Act—North American Free Trade Agreements—Israeli Trade Act Certificate, Alternate II. If Alternate II to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (f)(1)(ii) for paragraph (f)(1)(ii) of the basic provision:

(f)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled “Buy American Act—North American Free Trade Agreement—Israeli Trade Act”:

Canadian or Israeli End Products:

*Line Item No. and Country of Origin*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
[List as necessary]

(4) Trade Agreements Certificate. (Applies only if the clause at FAR 52.225-5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (f)(4)(ii) of this provision, is a U.S.-made, designated country, Caribbean Basin country, or NAFTA country end product, as defined in the clause of this solicitation entitled “Trade Agreements.”

(ii) The offeror shall list as other end products those end products that are not U.S.-

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made, designated country, Caribbean Basin country, or NAFTA country end products.

(End of provision)

Other End Products:

ALTERNATE I—JUN 2002

Line Item No. and Country of Origin

As prescribed in 1813.302-570(a)(2), add the following paragraph to the end of the basic provision and identify appropriately:

[List as necessary]

( ) Recovered Material Certification. As required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(c)(3)(A)(i)), the offeror certifies, that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by the applicable contract specifications.

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR part 25. For line items subject to the Trade Agreements Act, the Government will evaluate offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products without regard to the restrictions of the Buy American Act. The Government will consider for award only offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

ALTERNATE II—JUN 2002

As prescribed in 1813.302-570(a)(2), add the following paragraph to the end of the basic provision and identify appropriately:

(g) Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126). [The Contracting Officer must list in paragraph (g)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at FAR 22.1503(b).]

( ) Historically Black College or University and Minority Institution Representation

(1) Listed end products.

(1) Definitions. As used in this provision— “Historically black college or university” means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

Listed End Product and Listed Countries of Origin

“Minority institution” means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act (20 U.S.C. 1101a)).

(2) Certification. [If the Contracting Officer has identified end products and countries of origin in paragraph (g)(1) of this provision, then the offeror must certify to either (g)(2)(i) or (g)(2)(ii) by checking the appropriate block.]

(2) Representation. The offeror represents that it—

[ ] (i) The offeror will not supply any end product listed in paragraph (g)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

( ) is ( ) is not a historically black college or university;

[ ] (ii) The offeror may supply an end product listed in paragraph (g)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

( ) is ( ) is not a minority institution.

ALTERNATE III—JUN 2002

As prescribed in 1813.302-570(a)(2), add the following paragraph to the end of the basic provision and identify appropriately:

( ) Representation of Limited Rights Data and Restricted Computer Software

(1) This solicitation sets forth the work to be performed if a contract award results, and the Government's known delivery requirements for data (as defined in FAR 27.401). Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause at FAR 52.227-16, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data-General clause at FAR 52.227-14 that is to be included in this contract. Under the latter clause, a Contractor may withhold from delivery data that qualify as

limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Contractor's facility.

(2) As an aid in determining the Government's need to include Alternate II or Alternate III in the clause at FAR 52.227-14, Rights in Data-General, the offeror shall complete paragraph (3) of this provision to either state that none of the data qualify as limited rights data or restricted computer software, or identify, to the extent feasible, which of the data qualifies as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of such data should a contract be awarded to the offeror.

(3) The offeror has reviewed the requirements for the delivery of data or software and states [offeror check appropriate block]—

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

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

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

[67 FR 38905, June 6, 2002, as amended at 67 FR 50824, Aug. 6, 2002]

#### **1852.213-71 Evaluation—Other Than Commercial Items.**

As prescribed in 1813.302-570(b) insert the following provision:

##### EVALUATION—OTHER THAN COMMERCIAL ITEMS—JUN 2002

(a) The Government will award a contract resulting from this solicitation to the 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:

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[Contracting Officer shall insert the evaluation factors, such as (i) technical capability of the item offered to meet the Government requirement; (ii) price; (iii) past performance (see FAR 15.304).]

(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).

(End of provision)

[67 FR 38905, June 6, 2002]

#### **1852.214-70 Caution to offerors furnishing descriptive literature.**

As prescribed in 1814.201-670(a), insert the following provision:

##### CAUTION TO OFFERORS FURNISHING

##### Descriptive Literature

(Dec 1988)

Bidders are cautioned against furnishing as a part of their bids descriptive literature that includes language reserving to the bidder the right to deviate from the requirements of the invitation for bids. Statements that "Data are subject to change without notice," "Prices subject to change without notice," or words having a similar effect are examples of such reservation. The Government will reject as nonresponsive any bid that incorporates literature containing such language or any bid that must be evaluated by using literature containing such language. Bidders should clearly label any submissions of descriptive literature not intended to form a part of a bid as such in order to preclude any need for the Government to interpret the bidder's intent in submitting descriptive literature. [See FAR 14.202-5.]

(End of provision)

[61 FR 47082, Sept. 6, 1996]

#### **1852.214-71 Grouping for Aggregate Award.**

As prescribed in 1814.201-670(c), insert the following provision:

##### GROUPING FOR AGGREGATE AWARD (MAR 1989)

(a) The Government will evaluate offers and make award on a basis of the aggregate offers for items

[Insert the item numbers and/or descriptions].

The Government will not consider an offer for quantities less than those specified for these items.