



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2024-O0002

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Class Deviation—The Service-Disabled Veteran-Owned Small Business Program

Effective January 1, 2024, contracting officers shall use the procedures in this class deviation in lieu of the procedures at Federal Acquisition Regulation (FAR) 19.1403(a) through (c), 19.1405(b), and 19.1406 to verify an offeror's eligibility for a set-aside or sole-source award under the Service-Disabled Veteran-Owned Small Business (SDVOSB) Program. In addition, contracting officers shall use the SDVOSB protest procedures in this class deviation in lieu of the procedures at FAR 19.307.

(A) Preaward Procedures

Status as an SDVOSB concern under the SDVOSB Program is determined by the Small Business Administration (SBA) in accordance with 13 CFR part 128. For set-aside awards under the SDVOSB Program, contracting officers shall verify that an offeror is eligible for consideration for award by confirming that a concern either—

(1) Is designated as certified by SBA in SBA's Veteran Small Business Certification (VetCert) database at <https://veterans.certify.sba.gov>; or

(2) Has both represented its status as an SDVOSB concern in the System for Award Management (SAM) and submitted an application for certification to SBA's VetCert database on or before December 31, 2023. Pending applications are available at <https://veterans.certify.sba.gov>.

If an offeror meets the criteria at (1) or (2) above, the contracting officer may proceed with offeror evaluation. If an offeror is a joint venture, the contracting officer may proceed with offeror evaluation if the managing SDVOSB joint venture partner meets the criteria at (1) or (2)

above. If an offeror does not meet either criteria at (1) or (2), the contracting officer shall remove the concern from consideration.

For sole-source awards under the SDVOSB Program, contracting officers shall only make award to a concern that meets the criteria at (1) or (2) above. Contracting officers may make sole-source awards to a joint venture if the managing SDVOSB joint venture partner meets the criteria at (1) or (2) above.

Contracting officers may continue to rely on an SDVOSB concern's representation in SAM for awards made to SDVOSB concerns outside of the SDVOSB Program.

(B) Solicitations Provisions and Contract Clauses

For sole-source and set-aside awards made under the SDVOSB program, contracting officers shall use—

- 52.212-3, Offeror Representations and Certifications—Commercial Products and Commercial Services (DEVIATION 2024-O0002) in lieu of FAR solicitation provision 52.212-3.
- 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Products and Commercial Services (DEVIATION 2024-O0002) in lieu of FAR clause 52.212-5.
- 52.219-1 Small Business Program Representations (DEVIATION 2024-O0002) in lieu of FAR solicitation provision 52.219-1.
- 52.219-8, Utilization of Small Business Concerns (DEVIATION 2024-O0002), in lieu of FAR clause 52.219-8.
- 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (DEVIATION 2024-O0002), in lieu of FAR clause 52.219-27.
- 52.219-28, Post-Award Small Business Program Representation (Deviation 2024-O0002) in lieu of FAR clause 52.219-28.

Because FAR clause 52.212-5 is updated frequently to include new clauses, contracting officers are authorized to add individual FAR clauses to solicitations and contracts as required to augment the deviation clause as FAR 52.212-5 is updated after issuance of this class deviation.

(C) Protest Procedures

(1) For sole-source acquisitions under the SDVOSB Program, the contracting officer, the Department of Veterans Affairs (VA), or SBA may protest the apparent successful offeror's SDVOSB status. For all other acquisitions, any interested party, as defined at 13 CFR 134.1002, may protest the apparent successful offeror's SDVOSB status. SBA's SDVOSB protest are found at 13 CFR part 128.500 and at 13 CFR part 134, Rules of Procedure Governing Cases Before the Office of Hearings and Appeals (OHA). Assertions that a protested concern is not an SDVOSB concern, without setting forth specific facts or allegations will not be considered by OHA. SDVOSB status protests must be in writing and include the information at 13 CFR part

134.1005. OHA will consider protests challenging the SDVOSB status or ownership and control of a concern if—

(i) For status protests, the protester presents evidence supporting the contention that the owner(s) cannot provide documentation from the VA to show that they meet the definition of “service-disabled veteran” or “service-disabled veteran with a permanent or severe disability” as set forth in 13 CFR 128.102; or

(ii) For joint venture protests, the protester presents evidence that the managing SDVOSB joint venture partner does not meet the requirements at 13 CFR 128.402.

(2) An interested party, except the contracting officer, is required to submit its protest to the contracting officer to be received by the close of business on the fifth business day after—

(i) Bid opening in sealed bid acquisitions;

(ii) Notification by the contracting officer of the apparent successful offeror for negotiated acquisitions;

(iii) Notification by the contracting officer of the intended awardee for an order, except for an order issued under a Federal Supply Schedule (FSS) contract that is set aside for SDVOSBs under a multiple-award contract that was not totally or partially set aside or reserved for SDVOSBs; or

(iv) Notification by the contracting officer of the intended awardee for a blanket purchase agreement, except for a blanket purchase agreement issued under a FSS contract that is set aside for SDVOSBs.

(3) Any protest received after the designated time limit is untimely except—

(i) The VA or SBA may file an SDVOSB status protest at any time; and

(ii) The contracting officer, SBA, or VA may file an SDVOSB status protest at any time after the apparent successful awardee has been identified or after bid opening, whichever applies.

(4) Contracting officers shall forward all protests to the U.S. Small Business Administration, Office of Hearings and Appeals, 409 Third Street, SW, Washington, DC 20416, or by email to OHAFilings@sba.gov, marked “Attn: SDVOSB Status Protest”. The protest shall include a referral letter written by the contracting officer with information pertaining to the solicitation. The referral letter must include the following information to allow OHA to determine timeliness and standing:

- The solicitation number (or an electronic link to or a paper copy of the solicitation).
- The name, address, telephone number, and email address of the contracting officer.
- Whether the contract was awarded on a sole-source or set-aside basis.

- Whether the protestor submitted an offer.
- Whether the protested concern was the apparent successful offeror.
- When the protested concern submitted its initial offer that included price.
- Whether the acquisition was conducted using sealed bid or negotiated procedures.
- The bid opening date, if applicable.
- The date the contracting officer received the protest.
- The date the protestor received notification about the apparent successful offeror, if applicable.
- Whether a contract has been awarded.

(5) OHA will notify the protestor, the protested concern, SBA's Director of Government Contracting (D/GC), SBA Counsel, and the contracting officer of the date OHA received the protest. OHA does not have a standard timeline for issuing decisions. Before an OHA decision is made and after receiving a protest involving the apparent successful offeror's status as an SDVOSB concern, the contracting officer shall either—

(i) Withhold award of the contract until OHA determines the status of the protested concern; or

(ii) Award the contract after receipt of the protest but before OHA issues its decision if the contracting officer determines in writing that an award must be made to protect the public interest. The contracting officers shall notify OHA and SBA D/GC in writing of the determination and include a copy in the contract file.

(6) After an OHA decision is made, OHA will notify the contracting officer, the protestor, and the protested concern of its decision. The decision is effective immediately and is final. OHA decisions may not be appealed.

(i) If the contracting officer has withheld award and OHA has determined that the protested concern is an eligible SDVOSB or has dismissed all protests against the protested concern, then the contracting officer may award the contract to the protested concern.

(ii) If the contracting officer has withheld contract award, and OHA has sustained the protest and determined that the concern is not an SDVOSB, then the contracting officer shall not award the contract to the protested concern.

(iii) If the contracting officer made a written determination that award must be made to protect the public interest and awarded the contract, and the OHA decision sustaining the protest is received after award—

(a) The contracting officer shall terminate the contract, unless the contracting officer determines in writing that termination is not in the best interests of the Government. However, the contracting officer shall not exercise any options or award further task or delivery orders;

(b) The contracting officer shall update the Federal Procurement Data System to reflect the final OHA decision; and

(c) A concern found to be ineligible may not submit future offers as an SDVOSB concern until the concern is designated as an SDVOSB by SBA in the SBA VetCert database.

This class deviation implements revisions made by SBA to its regulations in its final rule published in the *Federal Register* on November 29, 2022, at 87 FR 73400. SBA's final rule implements section 862 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283; 15 U.S.C. 657f). Section 862 created a requirement for a concern to be certified as an SDVOSB in order to be awarded a set-aside or sole-source contract under the SDVOSB Program.

This class deviation remains in effect until incorporated into the FAR or is otherwise rescinded. My point of contact is Ms. Jeanette Snyder, DPC/DARS, who may be reached at jeanette.m.snyder4.civ@mail.mil.

John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

Attachments:
As stated

52.212-3 Offeror Representations and Certifications—Commercial Products and Commercial Services (DEVIATION 2024-O0002).

Insert the following deviation provision with its Alternate I in solicitations set aside for, or to be awarded on a sole source basis to, service-disabled veteran-owned small business concerns that are for the acquisition of commercial products or commercial services.

OFFEROR REPRESENTATION AND CERTIFICATIONS—COMMERCIAL
PRODUCTS AND COMMERCIAL SERVICES (DEVIATION 2024-O0002)
(JAN 2024)

The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically in the System for Award Management (SAM) accessed through <https://www.sam.gov>. If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (v) of this provision.

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

Covered telecommunications equipment or services has the meaning provided in the clause 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

Economically disadvantaged women-owned small business (EDWOSB) concern means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with [13 CFR part 127](#), and the concern is certified by SBA or an approved third-party certifier in accordance with [13 CFR 127.300](#). It automatically qualifies as a women-owned small business eligible under the WOSB Program.

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.

Highest-level owner means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

Immediate owner means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: Ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

Inverted domestic corporation means a foreign incorporated entity that meets the definition of an inverted domestic corporation under [6 U.S.C. 395\(b\)](#), applied in accordance with the rules and definitions of [6 U.S.C. 395\(c\)](#).

Manufactured end product means any end product in product and service codes (PSCs) 1000–9999, except—

- (1) PSC 5510, Lumber and Related Basic Wood Materials;
- (2) Product or Service Group (PSG) 87, Agricultural Supplies;
- (3) PSG 88, Live Animals;
- (4) PSG 89, Subsistence;
- (5) PSC 9410, Crude Grades of Plant Materials;
- (6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) PSC 9610, Ores;
- (9) PSC 9620, Minerals, Natural and Synthetic; and
- (10) PSC 9630, Additive Metal Materials.

Place of manufacture means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

Predecessor means an entity that is replaced by a successor and includes any predecessors of the predecessor.

Reasonable inquiry has the meaning provided in the clause 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

Restricted business operations means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 ([Pub. L. 110–174](#)). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

Sensitive technology—

- (1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—
 - (i) To restrict the free flow of unbiased information in Iran; or
 - (ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and
- (2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act ([50 U.S.C. 1702\(b\)\(3\)](#)).

Service-disabled veteran-owned small business concern (SDVOSB)—

- (1) Means a small business concern—
 - (i) Not less than 51 percent of which is owned and controlled 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

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

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

(iii) A small business concern eligible under the SDVOSB Program in accordance with 13 CFR part 128 (see subpart 19.14).

(2) *Service-disabled veteran*, as used in this definition, 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\(16\)](#), and who is registered in the Beneficiary Identification and Records Locator Subsystem, or successor system that is maintained by the Department of Veterans Affairs' Veterans Benefits Administration, as a service-disabled veteran.

Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program means an SDVOSB concern that is either—

(1) Effective January 1, 2024, is designated in the SBA Veteran Certification Small Business (VetCert) database at <https://veterans.certify.sba.gov> as certified by SBA in accordance with 13 CFR 128.300; or

(2) Has represented that it is a SDVOSB concern in SAM and has submitted a complete application for certification to SBA via SBA's VetCert database at <https://veterans.certify.sba.gov> on or before December 31, 2023.

Service-Disabled Veteran-Owned Small Business (SDVOSB) Program means a program that authorizes contracting officers to limit competition, including award on a sole-source basis, to SDVOSB concerns eligible under the SDVOSB Program.

Small business concern—(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in [13 CFR part 121](#) and size standards in this solicitation.

(2) *Affiliates*, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at [13 CFR 121.103](#).

Small disadvantaged business concern, consistent with [13 CFR 124.1002](#), means a small business concern under the size standard applicable to the acquisition, that—

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(1) Is at least 51 percent unconditionally and directly owned (as defined at [13 CFR 124.105](#)) by—

(i) One or more socially disadvantaged (as defined at [13 CFR 124.103](#)) and economically disadvantaged (as defined at [13 CFR 124.104](#)) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at [13 CFR 124.104\(c\)\(2\)](#); and

(2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

Subsidiary means an entity in which more than 50 percent of the entity is owned—

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

Successor means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term “successor” does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

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

(1) Not less than 51 percent of which is owned and controlled 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 business concern means a concern which 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 its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

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

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(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.

Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with [13 CFR part 127](#)), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with [13 CFR 127.300](#).

(b)(1) *Annual Representations and Certifications*. Any changes provided by the Offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications in SAM.

(2) The offeror has completed the annual representations and certifications electronically in SAM accessed through <http://www.sam.gov>. After reviewing SAM information, the Offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212–3, Offeror Representations and Certifications—Commercial Products and Commercial Services, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard(s) applicable to the NAICS code(s) referenced for this solicitation), at the time this offer is submitted and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs ____.

[Offeror to identify the applicable paragraphs at (c) through (v) of this provision that the offeror has completed for the purposes of this solicitation only, if any.]

These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted electronically on SAM.]

(c) Offerors must complete the following representations when the resulting contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied part 19 in accordance with 19.000(b)(1)(ii). Check all that apply.

(1) *Small business concern*. The offeror represents as part of its offer that—

Attachment 1
Class Deviation 2024-O0002

The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(i) It is, is not a small business concern; or

(ii) It is, is not a small business joint venture that complies with the requirements of [13 CFR 121.103\(h\)](#) and [13 CFR 125.8\(a\)](#) and [\(b\)](#). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: __.*]

(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 (SDVOSB) 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 an SDVOSB concern.

(4) *Service-disabled veteran-owned small business (SDVOSB) concern joint venture eligible under the SDVOSB Program.* [*Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.*] The offeror represents that it is, is not an SDVOSB joint venture eligible under the SDVOSB Program that complies with the requirements of [13 CFR 128.402](#). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: __.*]

(5) *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 that it is, is not a small disadvantaged business concern as defined in [13 CFR 124.1002](#).

(6) *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.

(7) *WOSB joint venture eligible under the WOSB Program.* The offeror represents that it is, is not a joint venture that complies with the requirements of [13 CFR 127.506\(a\)](#) through [\(c\)](#). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: __.*]

(8) *Economically disadvantaged women-owned small business (EDWOSB) joint venture.* The offeror represents that it is, is not a joint venture that complies with the requirements of [13 CFR 127.506\(a\)](#) through [\(c\)](#). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: __.*]

Note to paragraphs (c)(9) and (10):

Complete paragraphs (c)(9) and (10) only if this solicitation is expected to exceed the simplified acquisition threshold.

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(9) *Women-owned business concern (other than small business concern).* [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it is, a women-owned business concern.

(10) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price:

(11) *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, as having been certified by SBA as a HUBZone small business concern in the Dynamic Small Business Search and SAM, and will attempt to maintain an employment rate of HUBZone residents of 35 percent of its employees during performance of a HUBZone contract (see [13 CFR 126.200\(e\)\(1\)](#)); and

(ii) It is, is not a HUBZone joint venture that complies with the requirements of [13 CFR 126.616\(a\)](#) through [\(c\)](#). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: __.] Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.

(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) *Certification Regarding Payments to Influence Federal Transactions (31 U.S.C. 1352).* (Applies only if the contract is expected to exceed \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American Certificate.* (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American—Supplies, is included in this solicitation.)

(1)(i) The Offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that each domestic end product listed in paragraph (f)(3) of this provision contains a critical component.

(ii) The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select “no”.

(iii) The Offeror shall separately list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).

(iv) The terms “commercially available off-the-shelf (COTS) item,” “critical component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American-Supplies.”

(2) Foreign End Products:

Line Item No.	Country of origin	Exceeds 55% domestic content (yes/no)
---------------	-------------------	---------------------------------------

[List as necessary]

(3) Domestic end products containing a critical component:

Line Item No. _____

[List as necessary]

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

(g)(1) *Buy American—Free Trade Agreements—Israeli Trade Act Certificate.* (Applies only if the clause at FAR 52.225–3, Buy American—Free Trade Agreements—Israeli Trade Act, is included in this solicitation.)

(i)(A) The Offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (iii) of this provision, is a domestic end product and that each domestic end product listed in paragraph (g)(1)(iv) of this provision contains a critical component.

(B) The terms “Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “critical component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act.”

(ii) The Offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act.”

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

Line item No.	Country of origin
---------------	-------------------

[List as necessary]

(iii) The Offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—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. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select “no”.

Other Foreign End Products:

Line Item No.	Country of origin	Exceeds 55% domestic content (yes/no)
---------------	-------------------	---------------------------------------

[List as necessary]

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(iv) The Offeror shall list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).

Line Item No. _____
[List as necessary]

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

(2) *Buy 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 (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

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

Israeli End Products:

	Line Item No.	
--	---------------	--

[List as necessary]

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

(g)(1)(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

Line item No.	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 (g)(5)(ii) of this provision, is a U.S.-made or designated 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.-made or designated country end products.

Other End Products:

Line item No.	Country of origin
---------------	-------------------

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American statute. The Government will consider for award only offers of U.S.-made or designated 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.

(h) *Certification Regarding Responsibility Matters (Executive Order 12689)*. (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals—

(1) Are, are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) Have, have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property,

(3) Are, are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4) Have, have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at 9.104-5(a)(2) for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) *The tax liability is finally determined*. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or

judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) *Examples.* (A) The taxpayer has received a statutory notice of deficiency, under [I.R.C. § 6212](#), which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under [I.R.C. § 6320](#) entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(C) The taxpayer has entered into an installment agreement pursuant to [I.R.C. § 6159](#). The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(D) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under [11 U.S.C. 362](#) (the Bankruptcy Code).

(i) *Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126).* [The Contracting Officer must list in paragraph (i)(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 22.1503(b).]

(1) *Listed end products.*

Listed end product	Listed countries of origin
--------------------	----------------------------

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

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

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

(ii) The offeror may supply an end product listed in paragraph (i)(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.

(j) *Place of manufacture.* (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly—

(1) In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2) Outside the United States.

(k) *Certificates regarding exemptions from the application of the Service Contract Labor Standards.* (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [*The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.*]

(1) Maintenance, calibration, or repair of certain equipment as described in FAR 22.1003-4(c)(1). The offeror does does not certify that—

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR 22.1003-4(c)(2)(ii)) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(2) Certain services as described in FAR 22.1003–4(d)(1). The offeror does does not certify that—

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR 22.1003–4(d)(2)(iii));

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies—

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(1) *Taxpayer Identification Number (TIN)* ([26 U.S.C. 6109](#), [31 U.S.C. 7701](#)). (Not applicable if the offeror is required to provide this information to SAM to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(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 relationship 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 _____.

(m) *Restricted business operations in Sudan.* By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) *Prohibition on Contracting with Inverted Domestic Corporations.* (1) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at 9.108–2(b) applies or the requirement is waived in accordance with the procedures at 9.108–4.

(2) *Representation.* The Offeror represents that—

(i) It is, is not an inverted domestic corporation; and

(ii) It is, is not a subsidiary of an inverted domestic corporation.

(o) *Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.* (1) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(2) *Representation and certifications.* Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror—

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds the threshold at FAR 25.703–2(a)(2) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act ([50 U.S.C. 1701 et seq.](#)) (see OFAC's Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

(3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if—

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(i) This solicitation includes a trade agreements certification (e.g., 52.212-3(g) or a comparable agency provision); and

(ii) The offeror has certified that all the offered products to be supplied are designated country end products.

(p) *Ownership or Control of Offeror.* (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a unique entity identifier in the solicitation).

(1) The Offeror represents that it has or does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.

(2) If the Offeror indicates “has” in paragraph (p)(1) of this provision, enter the following information:

Immediate owner CAGE code: _____.

Immediate owner legal name: _____.

(Do not use a “doing business as” name)

Is the immediate owner owned or controlled by another entity: Yes or No.

(3) If the Offeror indicates “yes” in paragraph (p)(2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest-level owner CAGE code: _____.

Highest-level owner legal name: _____.

(Do not use a “doing business as” name)

(q) *Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.* (1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 ([Pub. L. 113-235](#)), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that—

(i) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(2) The Offeror represents that—

(i) It is is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(ii) It is is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(r) *Predecessor of Offeror.* (Applies in all solicitations that include the provision at 52.204-16, Commercial and Government Entity Code Reporting.)

(1) The Offeror represents that it is or is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(2) If the Offeror has indicated “is” in paragraph (r)(1) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: ____ (or mark “Unknown”).

Predecessor legal name: ____.

(Do not use a “doing business as” name).

(s) [Reserved]

(t) *Public Disclosure of Greenhouse Gas Emissions and Reduction Goals.* Applies in all solicitations that require offerors to register in SAM (12.301(d)(1)).

(1) This representation shall be completed if the Offeror received \$7.5 million or more in contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(2) *Representation.* [Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)].

(i) The Offeror (itself or through its immediate owner or highest-level owner) does, does not publicly disclose greenhouse gas emissions, *i.e.*, makes available on a publicly

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

accessible Web site the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

(ii) The Offeror (itself or through its immediate owner or highest-level owner) [] does, [] does not publicly disclose a quantitative greenhouse gas emissions reduction goal, *i.e.*, make available on a publicly accessible Web site a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(iii) A publicly accessible Web site includes the Offeror's own Web site or a recognized, third-party greenhouse gas emissions reporting program.

(3) If the Offeror checked “does” in paragraphs (t)(2)(i) or (t)(2)(ii) of this provision, respectively, the Offeror shall provide the publicly accessible Web site(s) where greenhouse gas emissions and/or reduction goals are reported.

(u)(1) In accordance with 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), Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(2) The prohibition in paragraph (u)(1) of this provision does not contravene requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(3) *Representation.* By submission of its offer, the Offeror represents that it will not require its employees or subcontractors to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a Government contract to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (*e.g.*, agency Office of the Inspector General).

(v) *Covered Telecommunications Equipment or Services—Representation.* Section 889(a)(1)(A) and section 889 (a)(1)(B) of [Public Law 115–232](#).

Attachment 1
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(1) 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”.

(2) The Offeror represents that—

(i) It does, 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.

(ii) After conducting a reasonable inquiry for purposes of this representation, that it does, does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(End of provision)

Alternate I (JAN 2024). As prescribed in 12.301(b)(2), add the following paragraph (c)(12) to the basic provision:

(c)(12) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) of this provision.)

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, 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.

(End of provision)

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Products and Commercial Services (DEVIATION 2024-O0002).

Insert the following clause in solicitations and contracts that are set-aside for, or that are for the sole-source award of a contract, under the Service-Disabled Veteran-Owned Small Business Program and that are for the acquisition of commercial products or commercial services.

OFFEROR REPRESENTATION AND CERTIFICATIONS—COMMERCIAL
PRODUCTS AND COMMERCIAL SERVICES (DEVIATION 2024-O0002)
(JAN 2024)

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—
Commercial Products and Commercial Services (JAN 2024)

(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 products and commercial services:

(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 (NOV 2021) (Section 1634 of Pub. L. 115–91).

(3) 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1)(A) of Pub. L. 115–232).

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

(5) 52.232–40, Providing Accelerated Payments to Small Business Subcontractors (MAR 2023) (31 U.S.C. 3903 and 10 U.S.C. 3801).

(6) 52.233–3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(7) 52.233–4, Applicable Law for Breach of Contract Claim (OCT 2004) (Public Laws 108–77 and 108–78 (19 U.S.C. 3805 note)).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to

Attachment 2
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services: [Contracting Officer check as appropriate.]

__ (1) 52.203–6, Restrictions on Subcontractor Sales to the Government (JUN 2020), with Alternate I (NOV 2021) (41 U.S.C. 4704 and 10 U.S.C. 4655)

__ (2) 52.203–13, Contractor Code of Business Ethics and Conduct (NOV 2021) (41 U.S.C. 3509).

__ (3) 52.203–15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111–5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

__ (4) 52.203–17, Contractor Employee Whistleblower Rights (NOV 2023) ([41 U.S.C. 4712](#)); this clause does not apply to contracts of DoD, NASA, the Coast Guard, or applicable elements of the intelligence community—see FAR 3.900(a).

__ (5) 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020) (Pub. L. 109–282) (31 U.S.C. 6101 note).

__ (6) [Reserved]

__ (7) 52.204–14, Service Contract Reporting Requirements (OCT 2016) (Pub. L. 111–117, section 743 of Div. C).

__ (8) 52.204–15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (Pub. L. 111–117, section 743 of Div. C).

__ (9) 52.204–27, Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117–328).

__ (10) 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (NOV 2021) (31 U.S.C. 6101 note).

__ (11) 52.209–9, Updates of Publicly Available Information Regarding Responsibility Matters (OCT 2018) (41 U.S.C. 2313).

__ (12) [Reserved]

__ (13) 52.219–3, Notice of HUBZone Set-Aside or Sole-Source Award (OCT 2022) (15 U.S.C. 657a).

Attachment 2
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

__ (14) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2022) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

__ (15) [Reserved]

__ (16)(i) 52.219-6, Notice of Total Small Business Set-Aside (NOV 2020) (15 U.S.C. 644).

__ (ii) Alternate I (MAR 2020) of 52.219-6.

__ (17)(i) 52.219-7, Notice of Partial Small Business Set-Aside (NOV 2020) (15 U.S.C. 644).

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

__ (18) 52.219-8, Utilization of Small Business Concerns (DEVIATION 2024-O0002) (JAN 2024) (15 U.S.C. 637(d)(2) and (3)).

__ (19)(i) 52.219-9, Small Business Subcontracting Plan (SEP 2023) (15 U.S.C. 637(d)(4)).

__ (ii) Alternate I (NOV 2016) of 52.219-9.

__ (iii) Alternate II (NOV 2016) of 52.219-9.

__ (iv) Alternate III (JUN 2020) of 52.219-9.

__ (v) Alternate IV (SEP 2023) of 52.219-9.

__ (20)(i) 52.219-13, Notice of Set-Aside of Orders (MAR 2020) (15 U.S.C. 644(r)).

__ (ii) Alternate I (MAR 2020) of 52.219-13.

__ (21) 52.219-14, Limitations on Subcontracting (OCT 2022) (15 U.S.C. 657s).

__ (22) 52.219-16, Liquidated Damages—Subcontracting Plan (SEP 2021) (15 U.S.C. 637(d)(4)(F)(i)).

__ (23) 52.219-27, Notice of Set-Aside for, or Sole-Source Award to, Service-Disabled Veteran-Owned Small Business (SDVOSB) Concerns Eligible Under the Service-Disabled Veteran-Owned Small Business Program (DEVIATION 2024-O0002) (JAN2024) (15 U.S.C. 657f).

__ (24)(i) 52.219-28, Post-Award Small Business Program Rerepresentation (DEVIATION 2024-O0002) (JAN 2024) (15 U.S.C. 632(a)(2)).

Attachment 2
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

- __ (ii) Alternate I (MAR 2020) of 52.219–28.
- __ (25) 52.219–29, Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (OCT 2022) (15 U.S.C. 637(m)).
- __ (26) 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 (OCT 2022) (15 U.S.C. 637(m)).
- __ (27) 52.219–32, Orders Issued Directly Under Small Business Reserves (MAR 2020) (15 U.S.C. 644(r)).
- __ (28) 52.219–33, Nonmanufacturer Rule (SEP 2021) (15 U.S.C. 657s).
- __ (29) 52.222–3, Convict Labor (JUN 2003) (E.O. 11755).
- __ (30) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (DEC 2022) (E.O. 13126).
- __ (31) 52.222–21, Prohibition of Segregated Facilities (APR 2015).
- __ (32)(i) 52.222–26, Equal Opportunity (SEPT 2016) (E.O. 11246).
- __ (ii) Alternate I (Feb 1999) of 52.222–26.
- __ (33)(i) 52.222–35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).
- __ (ii) Alternate I (July 2014) of 52.222–35.
- __ (34)(i) 52.222–36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793).
- __ (ii) Alternate I (July 2014) of 52.222–36.
- __ (35) 52.222–37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212).
- __ (36) 52.222–40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).
- __ (37)(i) 52.222–50, Combating Trafficking in Persons (NOV 2021) (22 U.S.C. chapter 78 and E.O. 13627).
- __ (ii) Alternate I (Mar 2015) of 52.222–50 (22 U.S.C. chapter 78 and E.O. 13627).
- __ (38) 52.222–54, Employment Eligibility Verification (MAY 2022). (E. O. 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial products or commercial services as prescribed in FAR 22.1803.)

Attachment 2
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

__ (39)(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.)

__ (40) 52.223–11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693).

__ (41) 52.223–12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693).

__ (42)(i) 52.223–13, Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) (E.O.s 13423 and 13514).

__ (ii) Alternate I (OCT 2015) of 52.223–13.

__ (43)(i) 52.223–14, Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).

__ (ii) Alternate I (Jun 2014) of 52.223–14.

__ (44) 52.223–15, Energy Efficiency in Energy-Consuming Products (MAY 2020) (42 U.S.C. 8259b).

__ (45)(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.

__ (46) 52.223–18, Encouraging Contractor Policies to Ban Text Messaging While Driving (JUN 2020) (E.O. 13513).

__ (47) 52.223–20, Aerosols (JUN 2016) (E.O. 13693).

__ (48) 52.223–21, Foams (JUN 2016) (E.O. 13693).

__ (49)(i) 52.224–3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

__ (ii) Alternate I (JAN 2017) of 52.224–3.

__ (50)(i) 52.225–1, Buy American—Supplies (OCT 2022)) (41 U.S.C. chapter 83).

Attachment 2
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

__ (ii) Alternate I (OCT 2022) of 52.225-1.

__ (51)(i) 52.225-3, Buy American—Free Trade Agreements—Israeli Trade Act (DEC 2022) (19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, 19 U.S.C. chapter 29 (sections 4501-4732), Public Law 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).

__ (ii) Alternate I [Reserved].

__ (iii) Alternate II (DEC 2022) of 52.225-3.

__ (iv) Alternate III (JAN 2021) of 52.225-3.

__ (v) Alternate IV (OCT 2022) of 52.225-3.

__ (52) 52.225-5, Trade Agreements (DEC 2022) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

__ (53) 52.225-13, Restrictions on Certain Foreign Purchases (FEB 2021) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

__ (54) 52.225-26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).

__ (55) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (NOV 2007) (42 U.S.C. 5150).

__ (56) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) (42 U.S.C. 5150).

__ (57) 52.229-12, Tax on Certain Foreign Procurements (FEB 2021).

__ (58) 52.232-29, Terms for Financing of Purchases of Commercial Products and Commercial Services (NOV 2021) (41 U.S.C. 4505, 10 U.S.C. 3805).

__ (59) 52.232-30, Installment Payments for Commercial Products and Commercial Services (NOV 2021) (41 U.S.C. 4505, 10 U.S.C. 3805).

__ (60) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (OCT 2018) (31 U.S.C. 3332).

Attachment 2
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

__ (61) 52.232–34, Payment by Electronic Funds Transfer—Other than System for Award Management (JUL 2013) (31 U.S.C. 3332).

__ (62) 52.232–36, Payment by Third Party (MAY 2014) (31 U.S.C. 3332).

__ (63) 52.239–1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).

__ (64) 52.242–5, Payments to Small Business Subcontractors (JAN 2017)(15 U.S.C. 637(d)(13)).

__ (65)(i) 52.247–64, Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV2021) (46 U.S.C. 55305 and 10 U.S.C. 2631).

__ (ii) Alternate I (Apr 2003) of 52.247–64.

__ (iii) Alternate II (NOV 2021) 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 products and commercial services: [Contracting Officer check as appropriate.]

__ (1) 52.222–41, Service Contract Labor Standards (AUG 2018) (41 U.S.C. chapter 67).

__ (2) 52.222–42, Statement of Equivalent Rates for Federal Hires (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

__ (3) 52.222–43, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (AUG 2018) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

__ (4) 52.222–44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (MAY 2014) (29 U.S.C 206 and 41 U.S.C. chapter 67).

__ (5) 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014) (41 U.S.C. chapter 67).

__ (6) 52.222–53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) (41 U.S.C. chapter 67).

__ (7) 52.222–55, Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).

__ (8) 52.222–62, Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

__ (9) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) (42 U.S.C. 1792).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, as defined in FAR 2.101, on the date of award of this contract, and does not contain the clause at 52.215–2, Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1), in a subcontract for commercial products or commercial services. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) 52.203–13, Contractor Code of Business Ethics and Conduct (NOV 2021) (41 U.S.C. 3509).

(ii) 52.203–17, Contractor Employee Whistleblower Rights (NOV 2023) (41 U.S.C. 4712).

(iii) 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)).

Attachment 2
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(iv) 52.204–23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115–91).

(v) 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1)(A) of Pub. L. 115–232).

(vi) 52.204–27, Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117–328).

(vii) 52.219–8, Utilization of Small Business Concerns (SEP 2023) (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.

(viii) 52.222–21, Prohibition of Segregated Facilities (APR 2015).

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

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

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

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

(xiii) 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.

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

(xv) __ (A) 52.222–50, Combating Trafficking in Persons (NOV 2021) (22 U.S.C. chapter 78 and E.O. 13627).

__ (B) Alternate I (Mar 2015) of 52.222–50 (22 U.S.C. chapter 78 and E.O. 13627).

(xvi) 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014) (41 U.S.C. chapter 67).

Attachment 2
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(xvii) 52.222–53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) (41 U.S.C. chapter 67).

(xviii) 52.222–54, Employment Eligibility Verification (MAY 2022) (E. O. 12989).

(xix) 52.222–55, Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).

(xx) 52.222–62 Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

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

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

(xxii) 52.225–26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).

(xxiii) 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.

(xxiv) 52.232–40, Providing Accelerated Payments to Small Business Subcontractors (MAR 2023) (31 U.S.C. 3903 and 10 U.S.C. 3801). Flow down required in accordance with paragraph (c) of 52.232–40.

(xxv) 52.247–64, Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) (46 U.S.C. 55305 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 products and commercial services a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

Alternate I (JAN 2024). Use the deviation clause with its Alternate I when the head of the agency has waived the examination of records by the Comptroller General in accordance with FAR 25.1001 and delete paragraph (d) from the basic deviation clause, redesignate paragraph (e) as paragraph (d), and revise the reference to “paragraphs (a), (b), (c), or (d) of this clause” in the redesignated paragraph (d) to read “paragraphs (a), (b), and (c) of this clause”.

Attachment 2
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

Alternate II (JAN 2024). If the acquisition will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009 ([Pub. L. 111-5](#)), the contracting officer shall use the deviation clause with its Alternate II and substitute the following paragraphs (d)(1) and (e)(1) for paragraphs (d)(1) and (e)(1) of the basic clause as follows:

(d)(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials shall have access to and right to—

(i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and

(ii) Interview any officer or employee regarding such transactions.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial products or commercial services, other than—

(i) Paragraph (d) of this clause. This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and

(ii) Those clauses listed in this paragraph (e)(1). Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(A) 52.203-13, Contractor Code of Business Ethics and Conduct (NOV 2021) (41 U.S.C. 3509).

(B) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5).

(C) 52.203-17, Contractor Employee Whistleblower Rights (NOV 2023) (41 U.S.C. 4712).

(D) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115-91).

(E) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(F) 52.204-27, Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

Attachment 2
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(G) 52.219–8, Utilization of Small Business Concerns (SEP 2023) (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.

(H) 52.222–21, Prohibition of Segregated Facilities (APR 2015).

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

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

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

(L) 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.

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

(N) __ (1) 52.222–50, Combating Trafficking in Persons (NOV 2021) (22 U.S.C. chapter 78 and E.O. 13627).

__ (2) Alternate I (Mar 2015) of 52.222–50 (22 U.S.C. chapter 78 and E.O. 13627).

(O) 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014) (41 U.S.C. chapter 67).

(P) 52.222–53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) (41 U.S.C. chapter 67).

(Q) 52.222–54, Employment Eligibility Verification (MAY 2022) (Executive Order 12989).

(R) 52.222–55, Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).

(S) 52.222–62, Paid Sick Leave Under Executive Order 13706 (JAN 2022)(E.O. 13706).

Attachment 2
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(T) (1) 52.224–3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

(2) Alternate I (JAN 2017) of 52.224–3.

(U) 52.225–26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).

(V) 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.

(W) 52.232–40, Providing Accelerated Payments to Small Business Subcontractors (MAR 2023) (31 U.S.C. 3903 and 10 U.S.C. 3801). Flow down required in accordance with paragraph (c) of 52.232–40.

(X) 52.247–64, Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) (46 U.S.C. 55305 and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247–64.

(End of clause)

52.219-1 Small Business Program Representations (DEVIATION 2024-O0002).

Insert the following deviation provision with its Alternate I in solicitations exceeding the micro-purchase threshold when the contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied this part in accordance with 19.000(b)(1)(ii).

SMALL BUSINESS PROGRAM REPRESENTATIONS (DEVIATION 2024-O0002)
(JAN 2024)

(a) Definitions. As used in this provision-

Economically disadvantaged women-owned small business (EDWOSB) concern means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

Service-disabled veteran-owned small business (SDVOSB) concern-

(1) Means a small business concern-

(i) Not less than 51 percent of which is owned by one and controlled 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

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

(iii) A small business concern eligible under the SDVOSB Program in accordance with 13 CFR part 128.

(2) *Service-disabled veteran*, as used in this definition, 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), and who is registered in the Beneficiary Identification and Records Locator Subsystem, or successor system that is maintained by the Department of Veterans Affairs' Veterans Benefits Administration, as a service-disabled veteran.

Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program, means an SDVOSB concern that either—

Attachment 3
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(1) Effective January 1, 2024, is designated in the SBA Veteran Certification Small Business (VetCert) database at <https://veterans.certify.sba.gov> as certified by SBA in accordance with 13 CFR 128.300; or

(2) Has represented that it is an SDVOSB concern in SAM and submitted a complete application for certification to SBA via SBA's VetCert database at <https://veterans.certify.sba.gov> on or before December 31, 2023.

Service-Disabled Veteran-Owned Small Business (SDVOSB) Program means a program that authorizes contracting officers to limit competition, including award on a sole-source basis, to SDVOSB concerns eligible under the SDVOSB Program.

Small disadvantaged business concern, consistent with [13 CFR 124.1001](#), means a small business concern under the size standard applicable to the acquisition, that—

(1) Is at least 51 percent unconditionally and directly owned (as defined at [13 CFR 124.105](#)) by—

(i) One or more socially disadvantaged (as defined at [13 CFR 124.103](#)) and economically disadvantaged (as defined at [13 CFR 124.104](#)) individuals who are citizens of the United States, and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at [13 CFR 124.104\(c\)\(2\)](#); and

(2) The management and daily business operations of which are controlled (as defined at [13 CFR 124.106](#)) by individuals who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

Veteran-owned small business concern means a small business concern-

(1) Not less than 51 percent of which is owned and controlled 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

Attachment 3
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

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

Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with 13 CFR part 127) means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300.

(b) (1) The North American Industry Classification System (NAICS) code for this acquisition is _____ [insert NAICS code].

(2) The small business size standard is _____ [insert size standard].

(3) The small business size standard for a concern that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce (i.e., nonmanufacturer), is 500 employees if the acquisition—

(i) Is set aside for small business and has a value above the simplified acquisition threshold;

(ii) Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or

(iii) Is an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(c) *Representations.* (1) The offeror represents as part of its offer that—

(i) It is, is not a small business concern; or

(ii) It is, is not a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: __.]

(2) [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 small disadvantaged business concern as defined in 13 CFR 124.1002.

The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(3) [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 women-owned small business concern.

(4) *Women-owned small business (WOSB) joint venture eligible under the WOSB Program.* The offeror represents as part of its offer that it is, is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: __.*]

(5) *Economically disadvantaged women-owned small business (EDWOSB) joint venture.* The offeror represents as part of its offer that it is, is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: __.*]

(6) *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.

(7) *Service-disabled veteran-owned small business concern.* [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(6) of this provision.] The offeror represents as part of its offer that it is, is not a service-disabled veteran-owned small business concern.

(8) *Service-disabled veteran-owned small business (SDVOSB) joint venture eligible under the SDVOSB Program.* [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(6) of this provision.] It is, is not a service-disabled veteran-owned joint venture that complies with the requirements of 13 CFR 128.402. [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: __.*]

(9) [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, as having been certified by SBA as a HUBZone small business concern in the Dynamic Small Business Search and SAM, and will attempt to maintain an employment rate of HUBZone residents of 35 percent of its employees during performance of a HUBZone contract (see 13 CFR 126.200(e)(1)); and

(ii) It is, is not a HUBZone joint venture that complies with the requirements of 13 CFR 126.616(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: __.*] Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.

Attachment 3
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(d) Notice. Under 15 U.S.C.645(d), any person who misrepresents a firm's status as a business concern that is small, HUBZone small, small disadvantaged, service-disabled veteran-owned small, economically disadvantaged women-owned small, or women-owned small eligible under the WOSB Program in order to obtain a contract to be awarded under the preference programs established pursuant to section 8, 9, 15, 31, and 36 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall-

- (1) Be punished by imposition of fine, imprisonment, or both;
- (2) Be subject to administrative remedies, including suspension and debarment; and
- (3) Be ineligible for participation in programs conducted under the authority of the Act.

(End of provision)

Alternate I (JAN 2024). Add the following paragraph (c)(10) to the deviation provision:

(c)(10) [*Complete if offeror represented itself as disadvantaged in paragraph (c)(2) 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, 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.

(End of provision)

52.219-8 Utilization of Small Business Concerns (DEVIATION 2024-O0002).

Insert the following deviation clause in solicitations and contracts that are set aside for service-disabled veteran-owned small business concerns under the service-disabled veteran-owned small business program and when the contract amount is expected to exceed the simplified acquisition threshold unless-

- (a) A personal services contract is contemplated (see 37.104); or
- (b) The contract, together with all of its subcontracts, will be performed entirely outside of the United States and its outlying areas.

UTILIZATION OF SMALL BUSINESS CONCERNS (DEVIATION 2024-O0002)
(JAN 2024)

(a) Definitions. As used in this contract—

HUBZone small business concern means a small business concern that meets the requirements described in 13 CFR 126.200, certified by the Small Business Administration (SBA) and designated by SBA as a HUBZone small business concern in the Dynamic Small Business Search (DSBS) and SAM.

Service-disabled veteran-owned small business (SDVOSB) concern—

- (1) Means a small business concern-
 - (i) Not less than 51 percent of which is owned and controlled 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
 - (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran; or
 - (iii) A small business concern eligible under the SDVOSB Program in accordance with 13 CFR part 128.
- (2) *Service-disabled veteran*, as used in this definition, 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), and who is registered in the Beneficiary Identification and Records Locator Subsystem, or successor system that is maintained by the Department of Veterans Affairs' Veterans Benefits Administration, as a service-disabled veteran.

Attachment 4
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program, means an SDVOSB concern that is either—

(1) Effective January 1, 2024, is designated in SBA's Veteran Certification Small Business (VetCert) database at <https://veterans.certify.sba.gov> as certified by SBA in accordance with 13 CFR 128.300; or

(2) Has represented that it is an SDVOSB concern in SAM and submitted a complete application for certification to SBA via SBA's VetCert database at <https://veterans.certify.sba.gov> on or before December 31, 2023.

Service-disabled veteran-owned small business (SDVOSB) Program means a program that authorizes contracting officers to limit competition, including award on a sole-source basis, to SDVOSB concerns eligible under the SDVOSB Program.

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation and qualified as a small business under the criteria and size standards in 13 CFR part 121, including the size standard that corresponds to the NAICS code assigned to the contract or subcontract.

Small disadvantaged business concern, consistent with 13 CFR 124.1001, means a small business concern under the size standard applicable to the acquisition, that-

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by-

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding the threshold at 13 CFR 124.104(c)(2) after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

Veteran-owned small business concern means a small business concern-

(1) Not less than 51 percent of which is owned and controlled 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

Attachment 4
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(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) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, SDVOSB concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(c) (1) A joint venture qualifies as a small business concern if—

(i) Each party to the joint venture qualifies as small under the size standard for the solicitation; or

(ii) The protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under a SBA mentor-protégé program.

(2) A joint venture qualifies as a HUBZone small business concern if it complies with the requirements in 13 CFR 126.616(a) through (c).

(d) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(e) (1) The Contractor may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business if

Attachment 4
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.

(2) The Contractor may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if—

(i) The subcontractor is registered in SAM; and

(ii) The subcontractor represents that the size and socioeconomic status representations made in SAM are current, accurate and complete as of the date of the offer for the subcontract.

(3) The Contractor may not require the use of SAM for the purposes of representing size or socioeconomic status in connection with a subcontract.

(4) In accordance with 13 CFR 121.411, 126.900, 127.700 and 128.600, a contractor acting in good faith is not liable for misrepresentations made by its subcontractors regarding the subcontractor's size or socioeconomic status.

(5) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing SAM or by accessing DSBS at https://web.sba.gov/pro-net/search/dsp_dsbs.cfm. If the subcontractor is a joint venture, the Contractor shall confirm that at least one party to the joint venture is certified by SBA as a HUBZone small business concern. The Contractor may confirm the representation by accessing SAM.

(End of clause)

52.219-27 Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (DEVIATION 2024-O0002).

Insert the following deviation clause in solicitations and contracts for acquisitions that are set aside for, or awarded on a sole source basis to, service-disabled veteran-owned small business concerns. This includes multiple-award contracts when orders may be set aside for service-disabled veteran-owned small business concerns as described in 8.405-5 and 16.505(b)(2)(i)(F):

NOTICE OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (DEVIATION 2024-O0002) (JAN 2024)

(a) *Definition. Service-disabled veteran-owned small business concern (SDVOSB) concern—*

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned and controlled 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

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

(iii) A small business concern eligible under the SDVOSB Program in accordance with 13 CFR part 128.

(2) *Service-disabled veteran*, as used in this definition, 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); and who is registered in the Beneficiary Identification and Records Locator Subsystem, or successor system that is maintained by the Department of Veterans Affairs' Veterans Benefits Administration, as a service-disabled veteran.

Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program means an SDVOSB concern that either—

(1) Effective January 1, 2024, is designated as certified by the Small Business Administration (SBA) in the SBA Veteran Certification Small Business (VetCert) database at <https://veterans.certify.sba.gov> in accordance with 13 CFR 128.300; or

(2) Has represented that it is an SDVOSB concern in the System for Award Management (SAM) and submitted a complete application for certification to SBA via the SBA VetCert database at <https://veterans.certify.sba.gov> on or before December 31, 2023.

Attachment 5
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

Service-Disabled Veteran-Owned Small Business (SDVOSB) Program means a program that authorizes contracting officers to limit competition, including award on a sole-source basis, to SDVOSB concerns eligible under the SDVOSB Program.

(b) *Applicability.* This clause applies only to—

(1) Contracts that have been set aside for, or awarded on a sole-source basis to, SDVOSB concerns eligible under the SDVOSB Program;

(2) Part or parts of a multiple-award contract that have been set aside for SDVOSB concerns eligible under the SDVOSB Program;

(3) Orders set aside for SDVOSB concerns eligible under the SDVOSB Program under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F); and

(4) Orders issued directly to SDVOSB concerns eligible under the SDVOSB Program under multiple-award contracts as described in 19.504(c)(1)(ii).

(c) *General.* Effective January 1, 2024, for SDVOSB set-aside or sole-source procurements, offers are solicited only from certified SDVOSB concerns, and awards resulting from this solicitation will be made only to a concern that either—

(1) Is designated in SBA's Veteran Certification Small Business (VetCert) database as an SDVOSB concern certified by SBA; or

(2) Has represented its status as an SDVOSB concern in SAM and has submitted a complete application for certification to SBA via SBA's VetCert database at <https://veterans.certify.sba.gov> on or before December 31, 2023. Offers received from concerns that do not meet the criteria of paragraph (c)(1) or (2) of this clause shall not be considered.

(d) A joint venture may be considered an SDVOSB concern if—

(1) The managing partner of the joint venture complies with the criteria at paragraph (c)(1) or (2) of this clause and in 13 CFR 128.402(a) through (c); and

(2) Each party to the joint venture is small under the size standard corresponding to the NAICS code assigned to the procurement, or the protégé is small under the size standard corresponding to the NAICS code assigned to the procurement in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under an SBA mentor-protégé program.

Attachment 5
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(e) In a joint venture that complies with paragraph (d) of this clause, the SDVOSB party or parties to the joint venture shall perform at least 40 percent of the work performed by the joint venture. Work performed by the SDVOSB party or parties to the joint venture must be more than administrative functions.

(End of clause)

52.219-28 Post-Award Small Business Program Rerepresentation (DEVIATION 2024-O0002).

Insert the following deviation clause in solicitations and contracts exceeding the micro-purchase threshold to be set aside for, or to be awarded on a sole source basis to, service-disabled veteran-owned small business concerns, when the contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied FAR part 19.3 in accordance with FAR 19.000(b)(1):

POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (DEVIATION 2024-O0002)
(JAN 2024)

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

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217–8, Option to Extend Services, or other appropriate authority.

Small business concern—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in [13 CFR part 121](#) and the size standard in paragraph (d) of this clause.

(2) *Affiliates*, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at [13 CFR 121.103](#).

(b) If the Contractor represented that it was any of the small business concerns identified in 19.000(a)(3) prior to award of this contract, the Contractor shall rerepresent its size and socioeconomic status according to paragraph (f) of this clause or, if applicable, paragraph (h) of this clause, upon occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

Attachment 6
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) If the Contractor represented that it was any of the small business concerns identified in 19.000(a)(3) prior to award of this contract, the Contractor shall rerepresent its size and socioeconomic status according to paragraph (f) of this clause or, if applicable, paragraph (h) of this clause, when the Contracting Officer explicitly requires it for an order issued under a multiple-award contract.

(d) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code(s) assigned to this contract. The small business size standard corresponding to this NAICS code(s) can be found at <https://www.sba.gov/document/support--table-size-standards>.

(e) The small business size standard for a Contractor providing an end item that it does not manufacture, process, or produce itself, for a contract other than a construction or service contract, is 500 employees, or 150 employees for information technology value-added resellers under NAICS code 541519, if the acquisition—

(1) Was set aside for small business and has a value above the simplified acquisition threshold;

(2) Used the HUBZone price evaluation preference regardless of dollar value, unless the Contractor waived the price evaluation preference; or

(3) Was an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(f) Except as provided in paragraph (h) of this clause, the Contractor shall make the representation(s) required by paragraph (b) and (c) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause, or with its offer for an order (see

Attachment 6
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

paragraph (c) of this clause), that the data have been validated or updated, and provide the date of the validation or update.

(g) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (f) or (h) of this clause.

(h) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

(1) The Contractor represents that it is, is not a small business concern under NAICS Code _____ assigned to contract number _____.

(2) [Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.] The Contractor represents that it is, is not, a small disadvantaged business concern as defined in [13 CFR 124.1002](#).

(3) [Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.] The Contractor represents that it is, is not a women-owned small business concern.

(4) Women-owned small business (WOSB) joint venture eligible under the WOSB Program. The Contractor represents that it is, is not a joint venture that complies with the requirements of [13 CFR 127.506\(a\)](#) through (c). [The Contractor shall enter the name and unique entity identifier of each party to the joint venture: __.]

(5) Economically disadvantaged women-owned small business (EDWOSB) joint venture. The Contractor represents that it is, is not a joint venture that complies with the requirements of [13 CFR 127.506\(a\)](#) through (c). [The Contractor shall enter the name and unique entity identifier of each party to the joint venture: __.]

(6) [Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.] The Contractor represents that it is, is not a veteran-owned small business concern.

(7) [Complete only if the Contractor represented itself as a veteran-owned small business concern in paragraph (h)(6) of this clause.] The Contractor represents that it is, is not a service-disabled veteran-owned small business concern.

____(8) [Complete only if the Contractor represented itself as a veteran-owned small business concern in paragraph (h)(6) of this clause.] Service-disabled veteran-owned small business (SDVOSB) joint venture eligible under the SDVOSB Program. The Contractor represents that it is,

Attachment 6
Class Deviation 2024-O0002
The Service-Disabled Veteran-Owned Small Business Program
Changes are indicated by a change bar in the right-hand margin.

is not an SDVOSB joint venture eligible under the SDVOSB Program that complies with the requirements of 13 CFR 128.402. [*The Contractor shall enter the name and unique entity identifier of each party to the joint venture: __.*]

(9) [*Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.*] The Contractor represents 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 changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with [13 CFR part 126](#); and

(ii) It is, is not a HUBZone joint venture that complies with the requirements of [13 CFR part 126](#), and the representation in paragraph (h)(8)(i) of this clause is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [*The Contractor shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: _____.*] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation. [*Contractor to sign and date and insert authorized signer's name and title.*]

(End of clause)