52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment.

As prescribed in 4.2105(a), insert the following provision:

Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)

The *Offeror shall* not complete the representation at paragraph (d)(1) of this provision if the *Offeror* has represented that it "does not provide covered telecommunications equipment or services as a part of its offered *products* or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at 52.204-26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at 52.212-3, *Offeror* Representations and Certifications-*Commercial Products* or *Commercial Services*. The *Offeror shall* not complete the representation in paragraph (d)(2) of this provision if the *Offeror* has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at 52.204-26, or in paragraph (v)(2)(ii) of the provision at 52.212-3.

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

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

(b) *Prohibition*.

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

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

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

(2) Section 889(a)(1)(B) of the John S. McCain *National Defense* Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an *executive agency* on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or

essential *component* of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition *shall* be construed to—

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

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

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

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

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

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

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

(e) *Disclosures.*

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

(i) For covered equipment—

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

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

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

(ii) For covered services—

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

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

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

(i) For covered equipment—

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

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

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

(ii) For covered services—

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

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

(End of provision)

Parent topic: 52.204 [Reserved]