

# ATTACHMENT H

## RAPID IV RFP

### ADDITIONAL DELIVERY ORDER CLAUSES & PROVISIONS

September 11, 2019

**ADDITIONAL PROVISIONS APPLICABLE AT THE DELIVERY ORDER LEVEL**

**A) 52.215-20 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA. (OCT 2010) (Will be incorporated by reference)**

**B) 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS COLNCERNS (DEVIATION) (JUL 2019) (Will be incorporated by reference)**

**C) 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) - ALTERNATE I (JUL 1995)**

(a) "Hazardous material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material (*If none, insert "None"*) Identification No.

_____	_____
_____	_____
_____	_____

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to-

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with paragraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(i) Except as provided in paragraph (i)(2), the Contractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

(2) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope.

(End of clause)

**D) GSFC 52.209-301 NOTICE OF POTENTIAL ORGANIZATIONAL CONFLICTS OF INTEREST (MAR 2019)**

(a) Notice. The Contracting Officer (CO) has determined that this acquisition may give rise to an organizational conflict of interest (OCI). Accordingly, the attention of prospective Offerors is invited to FAR Subpart 9.5 --Organizational Conflicts of Interest. The CO shall not award a contract until NASA determines any OCI is reasonably resolved. The CO has the sole authority to determine whether an OCI exists and to determine whether the conflict has been reasonably resolved. The OCI Submission, comprised of the Offeror's OCI Assessment and its OCI Plan, will not be evaluated as part of the Mission Suitability Factor (if applicable). The OCI Plan will be considered in determining the contractor's responsibility to perform this contract. As such, the Government may conduct exchanges with any Offeror at any time during the evaluation process concerning its OCI Submission. A NASA CO approved OCI Plan shall be required in order for a contractor to be eligible for award of this contract.

The proposed OCI Plan shall be consistent with all other areas of the proposal. Material inconsistencies between the OCI Plan and other proposal areas may render the proposal invalid, resulting in an unacceptable proposal that is ineligible for award. The proposed OCI Plan is not page limited. The plan shall be included as part as the proposal Offer Volume, or as a separate attachment, consistent with the solicitation instructions.

(b) Description of Potential Conflict. The nature of this OCI is:

***TBD***

(c) Responsibility of Offeror.

(1) Applying the principles of FAR Subpart 9.5, each Offeror shall assess whether there is an OCI associated with the proposal it submits. The Offeror must explain the actions it intends to use to resolve any OCI identified by the Government or identified through its own assessment.

(2) Offerors shall inform the CO of any potential conflicts of interest, including those involving contracts with other Government organizations, as part of the OCI Submission in paragraph (g) below. The CO will use this information to determine whether resolution of those conflicts will be required.

(3) If the Offeror's proposed action to resolve an OCI is not acceptable, the CO will notify the Offeror, providing the reasons why its proposed resolution is not considered acceptable and allow the Offeror a reasonable opportunity to respond before making a final decision on the OCI. In the event that the Offeror is not successful in resolving an identified conflict to the satisfaction of the CO, the Offeror may be determined to be ineligible for award.

(d) Representation. By submission of its offer, the Offeror represents, to the best of its knowledge and belief, that –

(1) there are no relevant facts that could give rise to an OCI, as defined in FAR Part 2; or

(2) the Offeror has disclosed all relevant information regarding any actual or potential conflicts of interest.

(e) Termination for default or termination for cause. If the successful Offeror was aware, or should have been aware, of an OCI before award of this contract and did not fully disclose that conflict to the CO, the Government may terminate the contract for default or cause.

(f) Waiver. The agency reserves the right to waive the requirements of FAR 9.5, in accordance with FAR 9.503.

(g) The Offeror's OCI Submission, which will be considered part of the Offer Volume, shall contain the following:

(1) OCI Assessment. The Offeror shall identify any organizational interests (financial, contractual or other) that would be affected by performance of the Statement of Work requirements, whether by it or its proposed subcontractors. This includes recently performed (within 2 years prior to the proposal due date), currently performed, or planned work (including future competitive proposals), whether as a prime contract holder or a subcontractor.

- A. The Offeror shall include a list of all of its and its proposed subcontractor's NASA contracts and subcontracts in its submission. For each contract and subcontract listed by the prime contractor and its subcontractor, the Offeror shall: (1) identify the contract number; (2) identify the name, address, and telephone number of the customer(s); (3) describe the scope of work in sufficient detail to ascertain the likelihood of a conflict with performance of the SOW requirements of this contract; and (4) discuss any potential conflicts arising from performance of the listed contracts and award of this contract.
- B. For non-NASA contracts, the Offeror shall list any of its and its proposed subcontractor's contracts or subcontracts that may give rise to an OCI. For each contract and subcontract listed, the Offeror shall: (1) identify the contract by number and name; (2) identify the name, address, and telephone number of the customer(s); and (3) describe the potential conflict.
- C. For financial or other conflicts that could arise from performance of the SOW requirements of this contract, the Offeror shall address the nature and extent of the financial interest and any entity or entities involved in the financial relationship.

- D. If any of the interests identified above may give rise to a conflict or potential conflict, the Offeror shall address how it will avoid, neutralize, or mitigate the OCI. Sufficient information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.

(2) OCI Plan. The Offeror shall submit an OCI Plan that, once approved by the CO, will be incorporated into any resulting contract. The Plan shall contain the following:

- A. Demonstration of ability to define and properly identify the three types of organizational conflicts of interest that may arise (Unequal Access to Information, Biased Ground Rules, and Impaired objectivity).
- B. Identification and description of company roles, responsibilities, and procedures for screening (i.e., identifying/recognizing, analyzing/evaluating, resolving, and reporting) existing and new business opportunities for actual/potential OCIs.
- C. Description of how the Offeror intends to notify employees of the requirements of this plan and to document that employees received such notice. To the extent this requirement is accomplished through employee training, the Plan shall include a copy of the template to be used for training certification.
- E. Description of how the Offeror will report any breaches to the CO, and implement any necessary corrective actions. The Plan should reflect that the Offeror will immediately implement any corrective action steps needed to negate or mitigate the impact of a breach, while also notifying the CO of the breach and coordinating its proposed corrective action approach with the CO as quickly as practicable. Final resolution of the corrective action must be approved by the CO.
- F. Identification of any affiliated companies/entities (e.g., a parent company or a wholly-owned subsidiary) and procedures for coordinating OCIs with such affiliated companies/entities.
- G. Reporting of all potential/actual OCIs identified during performance of the contract to the CO. An OCI report shall include (1) a description of the conflict, (2) the plan for resolving the conflict, and (3) the benefits/risks vis-à-vis contract performance associated with plan approval/acceptance.
- H. Explanation of how the contractor will flow down the provisions of this mitigation plan to any subcontractor that may have a conflict with regard to performing the requirements of this contract.
- I. Description of any organizational and employee sanctions for violations of established OCI procedures/requirements/guidelines.
- J. Detailed discussion of neutralization, mitigation or avoidance measures for any conflict or potential conflict identified in the Offeror's OCI Assessment provided in response to paragraph (g)(1) above.
- K. Explanation of how the Plan will be updated to address OCIs that may arise during performance. The Plan should reflect that any updates must be approved by the CO and the updates/changes to the Plan must be incorporated in the contract to be effective.
- L. As this contract contains NASA FAR Supplement clause 1852.237-72, Access to Sensitive Information, the Plan shall also address all items required by that clause, including:

- i. Utilize any sensitive information coming into its possession only for the purpose of performing the services specified in its contract.
- ii. Safeguard sensitive information coming into its possession from unauthorized use and disclosure.
- iii. Allow access to sensitive information only to those employees that need it to perform services under its contract.
- iv. Preclude access and disclosure of sensitive information to persons and entities outside of the service provider’s organization.
- v. Include a non-disclosure statement, a requirement for employees having access to sensitive information.
- vi. Include a Cleared Authorized Employees List for contract or task order.

(End of provision)

**E) GSFC 52.246-93 ACCEPTANCE—LOCATION(S) (SEPT 2013)**

The Contracting Officer or authorized representative will accomplish acceptance at the following location(s):

<b>Deliverable Item No.</b>	<b>Location</b>	<b>Authorized Representative</b>
TBD	TBD	TBD

The Contracting Officer reserves the right to designate other Government agents as authorized representatives. The Contractor will be notified by a written notice or by a copy of the delegation letter if other agents are authorized.

If this is a fixed price type contract, acceptance shall be deemed to have occurred constructively--for the sole purpose of computing an interest penalty that might be due the Contractor under the Prompt Payment Act--on the 7th day after the Contractor has delivered the supplies or services in accordance with the terms and conditions of the contract. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the date of the actual acceptance.

(End of clause)

**F) 1852.245-80 GOVERNMENT PROPERTY MANAGEMENT INFORMATION (JAN 2011)**

- (a) The offeror shall identify the industry leading or voluntary consensus standards, and/or the industry leading practices, that it intends to employ for the management of Government property under any contract awarded from this solicitation.

(b) The offeror shall provide the date of its last Government property control system analysis along with its overall status, a summary of findings and recommendations, the status of any recommended corrective actions, the name of the Government activity that performed the analysis, and the latest available contact information for that activity.

(c) The offeror shall identify any property it intends to use in performance of this contract from the list of available Government property in the provision at 1852.245-81, List of Available Government Property.

(d) The offeror shall identify all Government property in its possession, provided under other Government contracts that it intends to use in the performance of this contract. The offeror shall also identify: The contract that provided the property, the responsible Contracting Officer, the dates during which the property will be available for use (including the first, last, and all intervening months), and, for any property that will be used concurrently in performing two or more contracts, the amounts of the respective uses in sufficient detail to support prorating the rent, the amount of rent that would otherwise be charged in accordance with FAR 52.245-9, Use and Charges (June 2007), and the contact information for the responsible Government Contracting Officer. The offeror shall provide proof that such use was authorized by the responsible Contracting Officer.

(e) The offeror shall disclose cost accounting practices that allow for direct charging of commercially available equipment, when commercially available equipment is to be used in performance of the contract and the equipment is not a deliverable.

(f) The offeror shall identify, in list form, any equipment that it intends to acquire and directly charge to the Government under this contract. The list shall include a description, manufacturer, model number (when available), quantity required, and estimated unit cost. Equipment approved as part of the award need not be requested under NFS clause 1852.245-702.

(g) The offeror shall disclose its intention to acquire any parts, supplies, materials or equipment, to fabricate an item of equipment for use under any contract resulting from this solicitation when that item of equipment:

Will be titled to the government under the provisions of the contract; is not included as a contract deliverable; and the Contractor intends to charge the costs of materials directly to the contract. The disclosure shall identify the end item or system and shall include all descriptive information, identification numbers (when available), quantities required and estimated costs.

(h) Existing Government property may be reviewed at the following locations, dates, and times:

**(TBD per DO)**

(End of provision)

**G) 1852.245-81 LIST OF AVAILABLE GOVERNMENT PROPERTY (JAN 2011)**

(a) The Government will make the following Government property available for use in performance of the contract resulting from this solicitation, on a no-charge-for-use basis in accordance with FAR 52.245-1, Government Property, included in this solicitation. The offeror shall notify the Government, as part of its proposal, of its intention to use or not use the property.

Item Description	Acquisition Date	Acquisition Cost	Quantity	If equipment		
				Manufacturer	Model	Serial Number

**The Government will furnish spaceflight instruments and associated equipment for the contractor to integrate into the mission spacecraft, unless otherwise specified in a delivery order. The Government provided spaceflight instrument will be specified in the delivery order.**

(b) The selected Contractor will be responsible for costs associated with transportation, and installation of the property listed in this provision.

(End of provision)