Amendment 1 to

Request for Proposals

RFP-UESP-2023-002-2

**Activity Title: “Gas Market Balancing Analysis”**

Issuance Date: May 9, 2023

Deadline for Receipt of Questions: April 28, 2023 at 8:00 p.m. Kyiv time

Closing Date and Time: May 19 , 2023 at 8:00 p.m. Kyiv time

*Issuance of this RFP does not constitute an award commitment on the Tetra Tech ES, Inc., nor does it commit to pay for any costs incurred in preparation or submission of comments/suggestions of a proposal. Proposals are submitted at the risk of the offerors. All preparation and submission costs are at the offeror’s expense.*

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| INTRODUCTION |
| The purpose of this RFP is to solicit proposals for **Gas Market Balancing Analysis** within the Scope of Work (SOW) specified in the Attachment A – Technical Specification within the Energy Security Project implementation funded by the U.S. Agency for International Development (USAID) and implemented by Tetra Tech ES, Inc. (Tetra Tech). |
| OFFEROR’S QUALIFICATIONS |
| Offeror must provide the following information and references in order to be qualified for the procurement process: |
| 1. Company’s information, including official registered title, type of business, address, and contact person information. |
| 1. A short description of the company and of past similar experience in providing the services described in the Attached A -Technical Specification. |
| 1. Overall technical approach to fulfill the specifications defined in Attachment A – Technical Specifications. 2. Certification that company is not owned or controlled in total or in part by any entity of any government. |
| 1. Certification by any subcontractor engaged by the company for this project that the subcontractor is not owned or controlled in total or in part by any entity of any government. |
| 1. The Offeror shall complete and sign the Representation and Certifications found in Attachments C to this document and include them with the Offeror’s proposal. Proposals that do not include these certifications will not be considered. 2. A certificate of current cost or pricing data – Attachment D |
| 1. Offerors listed in the Excluded Parties List System will not be considered. The Excluded Parties List can be found at <https://sam.gov/search/> 2. Proof of company registration. For Ukrainian companies, this means a recent extract from State Registry issued at least 3-5 days prior to the proposal due date that confirms the company’s active registration. |
| SOURCE, ORIGIN AND NATIONALITY RESTRICTIONS |
| The USAID authorized geographic code for the Energy Security Project is 935. Code 935: Consists of any area or country including the cooperating country, but excluding the “prohibited sources” |
| Reference: USAID ADS Chapter 310, and all its sub-sections. These documents are available on the Internet. |
| SUBMISSION OF PROPOSALS |
| All proposals are due on **May 19, 2023 at 8:00 p.m. Kyiv time**. Proposals must be submitted via e-mail at the address **UESPprocurement@tetratech.com** in the following formats: Adobe Acrobat and Microsoft Word and/or Excel. |
| All proposals must fully respond to the Technical Specifications enclosed as **Attachment A** and must include quotes in the format provided in the **Attachment B** - **Table 1 – Detailed Budget**. Proposals received after the above-stated due date and time will not be considered for this procurement. |
| QUESTIONS AND CLARIFICATIONS |
| All questions or clarifications regarding this RFP must be in writing and submitted, in English, to **UESPprocurement@tetratech.com** on **April 28, 2023 at 8:00 p.m. Kyiv time**. Questions and requests for clarification, and the responses thereto, will be circulated to all RFP recipients. |
| Only written answers from ESP Procurement Office of Tetra Tech will be considered official and carry weight in the RFP process and subsequent evaluation. Any answers received outside the official channel, whether received verbally or in writing, from employees or representatives of Tetra Tech, or any other party, will not be considered official responses regarding this RFP. |
| PROPOSALS PREPARATION INSTRUCTIONS |
| All Offerors must follow the instructions set forth herein in order to be qualified for the procurement process. If an Offeror does not follow the instructions set forth herein, the Offeror’s proposal may be eliminated from further consideration or the proposal may be downgraded and not receive full credit under the applicable evaluation criteria. |
| Separate Technical and Cost Proposals must be submitted. All proposals should be submitted in English and be signed by Offerors. |
| 1. TECHNICAL PROPOSAL |
| The technical proposal (excluding CVs) shall not exceed **11** pages. Proposals will be scored on a 100-point scale. Available points for each evaluation factor are given below. Offerors must address each evaluation factor. |
| The suggested outline for the technical proposal is stated below: |
| 1. **Organization’s Information (maximum 2 pages)**  * Organization’s information, including official registered title, type of business, list of offices if applicable, address, telephone, fax and website. |
| * Organization’s UEI number. |
| * Authorized point of Contact with phone number(s) and email address. |
| 1. **Company Technical Capability (maximum 2 pages)** |
| Description of organization, including activities/qualifications carried out like the scope of work requested. |
| 1. **Technical Approach (maximum 3 pages)** |
| Present a narrative that describes how the Offeror would implement the tasks identified in the scope of work. This narrative must also include: |
| * A management approach which describes how the Offeror will manage the delivery of the services and how the Offeror will interact with ESP. |
| * A draft work plan that outlines the proposed activities over the course of the period of performance. |
| * Proposed performance indicators to measure the impact of the Offeror’s planned activities and the progress of the Awardees as a result of the Offeror’s assistance. |
| Information which the Offeror considers proprietary, if any, should be clearly marked “proprietary” next to the relevant part of the text and it will then be treated as such. |
| 1. **Proposed Staff (maximum 2 pages, excluding CVs)** |
| Present a narrative that includes the following: |
| * Team composition (names, specialties/area of expertise, position/role, etc.), with detailed bios, and task assignments to perform the activities described in the SOW. |
| * Curriculum Vitae (CV) for all labor categories named in the Attachment A. (CVs shall be limited to 3 pages each) that describes their experience and lists the following: |
| * Affiliation/Organization * Education * Years of Professional Experience * Relevant Experience to the SOW in this RFP * Fluency in English |
| In addition to presenting the CVs, offerors should complete and include the table below: |

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| **Proposed Personnel’s Name, Last Name** | | **Proposed Position Under This Assignment** | | **Qualification** | **Years of Professional Experience** |
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| 1. **Company Past Performance (maximum 2 pages)** |
| Offerors should provide a summary of relevant studies or other assignments including the Title, Client, Date, and a brief description. The qualifications section is limited to 5 of the most relevant studies or other assignments performed in the last 5 years, presented in the following table format. If the client is confidential, simply list “confidential”. |

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| **Project (task) name (title)** | **Description of the project (task) and services provided** | **Client name, phone number and email address** | **Dates of execution** |
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| 1. FINANCIAL PROPOSAL |
| 1. **Detailed Budget** |
| Offeror shall complete the **Table 1 of the Attachment B “Detailed Budget”** in order to allow Tetra Tech ES, Inc. to compare all quotes and make a competitive selection. The budget should be provided in Excel format with unlocked cells and formula. |
| A price must be provided for each project component to be considered compliant with this request. The price proposal should include the individual line items shown in the template, e.g., fully-burdened daily rates, travel costs, and other direct costs. Offers must show unit prices, quantities, and total price. All items, services, etc. must be clearly labeled and included in the total offered price. The price proposal shall also include a budget narrative that explains the basis for the estimate of every cost element or line item. Supporting information must be provided in sufficient detail to allow for a complete analysis of each cost element or line item. Tetra Tech reserves the right to request additional cost information if the evaluation committee has concerns of the reasonableness, realism, or completeness of an Offeror’s proposed price. |
| Offeror shall provide unit pricing in **US dollars (USD).** Prices quoted in this document shall be valid for a 60-day time period, include all taxes and other costs but excluding the VAT tax originated in Ukraine. |
| 1. **1420 Forms for the proposed personnel** |
| For each staff member proposed, the Offeror shall submit a completed and signed USAID 1420 forms. |
| USAID form 1420 can be downloaded here: <https://www.usaid.gov/sites/default/files/AID1420-17.doc> |
| 1. **Proposed Billing Rates Certification** |
| Document on company letterhead certifying the labor rates being proposed are standard rates and have been previously billed to clients for similar work. |
| 1. **Representations and Certifications** |
| These documents can be found in Attachments C of this RFP and must be submitted as part of the Cost Proposal.   1. **Non-government owned certification**   Certification that company is not owned or controlled in total or in part by any entity of any government.   1. **Certificate of current cost or pricing data**   These documents can be found in Attachments D of this RFP and must be submitted as part of the Cost Proposal. |
| Under no circumstances may cost information be included in the technical proposal. No cost information or any prices, whether for deliverables or line items, may be included in the technical proposal. Cost information must only be shown in the cost proposal. |
| EVALUATION CRITERIA |
| Award will be made to the offeror representing the best value in consideration of past performance, qualifications, and price factors. Technical criteria are more important than cost, although prices must be reasonable and will be considered in the evaluation. Offeror are encouraged to provide a discount to their standard commercial rates. |
| Tetra Tech reserves the right to conduct discussions with selected offeror (s) in order to identify the best value offer. Award of any resulting Subcontract Agreement shall be made by Tetra Tech on a best value basis. Tetra Tech reserves the right to request a test assessment from offerors to assess their qualifications. |
| The submitted technical information will be scored by an evaluation committee using the following technical evaluation criteria (70 points) and cost proposal (30 points). |
| Given the specific expertise required to perform the services in question only offers with a technical score of 40 points or more will be considered for evaluation of their cost proposals. |
| Proposals will be scored on a 100-point scale. Available points for each evaluation factor are given below. |
| TECHNICAL PROPOSAL (70 POINTS) |

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| **Evaluation Criteria for Technical Proposal** | **Points** |
| 1. Technical Approach | 40 |
| 1. Management Approach | 20 |
| 1. Past Performance | 10 |
| **TOTAL** | **70** |

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| FINANCIAL PROPOSAL (30 POINTS) |
| The lowest qualified financial proposal will receive the maximum score of 30 points. |
| The other proposals will be scored inversely proportional to their price and computed as follows: |
| Sf = 30 \* Fm/F  where  Sf = financial Score of the proposal evaluated  Fm = price of the lowest priced Financial Proposal among those qualified  F = price of the Financial Proposal under consideration |
| Offeror should submit a Detailed Budget reflecting the cost of completing the scope. Offerors shall complete the Attachment B – Detailed Budget. Labor rates quoted in this document shall be fully-burdened with all indirect costs, taxes and fee, if any. The period of performance is **3 months** |
| Tetra Tech reserves the right to conduct discussions with selected offeror(s) in order to identify the best value offer. Award of any resulting Subcontract Agreement shall be made by Tetra Tech on a best value basis, with evaluation of proposed price as well as proposed services and implementation schedule. |
| TERMS OF PAYMENT |
| Payment terms for the awarded Subcontract Agreement shall be forty-five (45) days after satisfactory completion and acceptance and of services and deliverables according to the schedule in the Table 2. Payment shall be made by Tetra Tech ES, Inc. via bank wire transfer in **US dollars** or **Ukrainian Hryvnias** per National Bank of Ukraine exchange rate at the date of issuance of the invoice. |
| UEI NUMBER AND SAM.GOV REGISTRATION |
| If the proposed price is above $30,000, the successful bidder will be required to furnish a Unique Entity Identifier (UEI) and proof of SAM.gov registration within 24-48 hours of notice of award. Information regarding obtaining a UEI number may be found here: <https://www.fsd.gov/gsafsd_sp?id=kb_article_view&sysparm_article=KB0041254&sys_kb_id=875189f21bee8d54937fa64ce54bcbaa&spa=1> |
| NEGOTIATIONS |
| Best offer proposals are requested. It is anticipated that a subcontract will be awarded solely on the basis of the original offers received. However, Tetra Tech reserves the right to conduct discussions, negotiations and/or request clarifications prior to awarding a subcontract. Furthermore, Tetra Tech reserves the right to conduct a competitive range and to limit the number of offerors in the competitive range to permit an efficient evaluation environment among the most highly-rated proposals. Highest-rated offerors, as determined by the technical evaluation committee, may be asked to submit their best prices or technical responses during a competitive range. |
| MULTIPLE AWARDS/NO AWARD |
| Tetra Tech ES, Inc. reserves the right to issue multiple awards. Tetra Tech ES, Inc. also reserves the right to issue no awards. |

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| **ATTACHMENT A – TECHNICAL SPECIFICATION** |
| **SCOPE OF WORK: Gas Market Balancing Analysis** |
| **PERIOD OF PERFORMANCE: June - August 2023.**  **PLACE OF PERFORMANCE: Remote** |
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| 1. **Background** |
| The Ukrainian gas market has seen significant developments following the unbundling of the TSO from January 1, 2020. Ukraine has worked towards improvements in the sector, especially the development of the wholesale market and competition in the retail market, such as liberalization of the household supply segment since August 2020, and district heating from May 2021.  Prior to unbundling, daily balancing was adopted as required by EU 3rd Energy Package from March 2019. Main balancing rules were transferred into national legislation by adoption of Gas Transmission System Code of Ukraine (GTS Code). Pursuant to the GTS Code, the customers of gas transmission services (hereinafter – Shippers) are to resolve their imbalances in a timely manner. All balancing activities of the Gas Transmission System Operator of Ukraine (hereinafter – GTSOU) are solely to support the normal functioning of the Gas Transmission System (GTS) should the Shippers fail to adhere to their respective nominations/renominations. At the same time, in case the GTS integrity is deemed to be under threat, GTSOU will undertake balancing activities by purchasing/selling short-term standardized products and/or employing balancing services.  In order to ensure the GTS integrity, prior to 19th January 2022, the GTSO had a contract to provide balancing services. Following 19th January 2022, the GTSOU announced the procurement of such balancing services twice, yet both tenders failed due to the absence of bidders.  From 19th January 2022, the GTSOU balanced the system by purchasing/selling short-term products at the Ukrainian Energy Exchange (UEEX) that was selected through an open tender. It should be noted however that the trade in short-term products at the UEEX is of low liquidity, particularly since early 2022.  The low liquidity market of short-term products has an impact on the situation with physical and commercial balancing in the natural gas market, yet this situation has aggravated further due to the aggression of the Russian Federation against Ukraine after 24th February 2022. In order to stabilize the situation, the Government has introduced Public Service Obligations (PSOs) for the period of martial law. Thus, the Resolution of the Cabinet of Ministers of Ukraine no. 222 of 1st March 2022 requires that throughout the martial law and six months following the termination/cancellation of martial law, Naftogaz of Ukraine will sell natural gas to the Distribution System Operators (DSOs) in the volumes to cover their normal and abnormal losses, including technological losses and losses associated with combat activities and/or activities to prevent/resolve the humanitarian crisis. The Resolution determines Naftogaz of Ukraine as the Supplier of Last Resort (SoLR).  Moreover, since the introduction of martial law, the Ministry of Energy of Ukraine issued the following decrees to impose some restrictions directly associated with the GTS balancing rules.  1. MoE Decree no. 110 of 7th March 2022.  2. MoE Decree no. 127 of 18th March 2022.  3. MoE Decree no. 169 of 30th March 2022. |
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| **2. Objectives**  The goal of this project is to provide a systemic analysis of the physical balancing and commercial balancing in the natural gas market from the beginning of 2022, in particular since the introduction of martial law, and develop recommendations to ensure the physical integrity and economic equilibrium of the system through the introduction of effective balancing rules harmonized with the EU Network Code on Gas Balancing of Transmission Networks. |
| **3. Scope of Work** |
| This will require the following Tasks to be completed.   1. Review of the regulatory acts on physical balancing and commercial balancing, particularly those adopted following the introduction of martial law. This analysis will cover the following.  * The impacts that these newly adopted regulatory acts have on the balancing activities of the GTSOU. * Potential breaches of the balancing rules by the Shippers, their causes, and their effects on the operational performance and financial performance of the GTSOU in the context of balancing in 2022. This should include analysis of abuses/quasi-breaches/ breaches with examples of shipper’s actions assessed against the legal framework (data regarding initial and final shipper’s allocation; trade notifications; materials of internal interim TSO’s analysis) and with regards to TSO’s commercial impact (financial and operational data will be available for the Contractor). Separately, the analysis of the PSO’s execution shall be done (the interviews with the PSO suppliers would be beneficial). * The current regulations on financial securities to be granted by the Shippers, and recommendations to improve the respective regulations. * The GTSOU requirements regarding the quality and terms of submission of any information to be provided by Shippers. * Proposals within the existing legal and regulatory framework to minimize breaches of the balancing rules by the Shippers. Provision of the potential changes to the legal framework will be beneficial. * The current legal requirements of setting marginal prices for the purchase and sale, as well as acceptable deviations and disclosure principles to inform the Shippers, including review of how the process works in practice. The analysis should identify a) whether current legal requirements of setting marginal prices for the purchase and sale incentivize shippers for self-balancing; b) how fixed marginal price setting (by Ministry of Energy of Ukraine for production companies) impact on TSO and market. * This assessment should also include review of documents and legal acts, interview with the GTSO, and high-level assessment of compliance of marginal price setting with the EU best practices. This will require a review of the following laws and other regulatory acts:   + - Law of Ukraine ‘On the Natural Gas Market’     - GTS Code     - Decree of Ministry of Energy of Ukraine no. 87 of 26th February 2022     - Resolution of Cabinet of Ministers of Ukraine no. 222 of 6th March 2022     - Decree of Ministry of Energy of Ukraine no. 110 of 7th March 2022     - Decree of Ministry of Energy of Ukraine no. 127 of 18th March 2022Decree of Ministry of Energy of Ukraine no. 169 of 30th April 2022     - Other laws and regulations relevant to this assignment  1. Analysis of GTSOU internal policies and procedures associated with physical balancing and commercial balancing, the outcome of which is to provide:  * Analysis of the TSO balancing actions in scope of residual balancing system. * Analysis of the TSO balancing actions to provide financial incentives for shipper’s self-balancing. * Correct application by the GTSOU of legal acts that regulate approach for allocation and marginal price setting.   The assessment should include the analysis of the following:   * Allocations completed since January 2022 * Calculation of marginal prices since January 2022 * GTSOU activities at the UEEX to balance GTS – since January 2022  1. Analysis of accounting and financial reporting of results of the GTSOU balancing activities for 2022-2023, maintaining balancing neutrality, as well as recommendations on how to improve these. GTSOU is responsible for providing management and financial accounting data (not audited) in XLS/PDF format. 2. Analysis of the quality, completeness, and timeliness of the data on the supply and withdrawal of natural gas, as well as the rules regulating the exchange of such data between market participants. The analysis should cover the period January 2022 till March 2023 and include the following:    * Information to be provided by the GTSOU and DSOs.    * Projections, and preliminary and final allocations of withdrawals at the exit points to the distribution networks – since January 2022    * Quality of the projection data and preliminary allocations    * Overall quality and accuracy of projections and preliminary allocations, and their impact on the GTSOU’s balancing activities.    * Proposals concerning the respective legal and regulatory acts in order to improve the quality of projection data and preliminary allocations, as well as the data exchange system. 3. Development of summary of all studies, recommendations, final presentation to key stakeholders. 4. ESP is responsible for providing translation and interpretation support. ESP and GTSOU may assist with identification of and communication with potential interviewees. |

**4. Deliverables and Due Dates**

Deliverable 1. Report ‘Employment of Regulatory Acts on Physical Balancing and Commercial Balancing Introduced throughout Martial Law’ which will contain the results of Task 1. The Report will be produced in the English and Ukrainian languages.

Deliverable 2. Report ‘GTSOU Internal Policies and Procedures Associated with Physical Balancing and Commercial Balancing of GTS’, which will contain the results of Task 2 & 3. The Report will be produced in the English and Ukrainian languages.

Deliverable 3. Report ‘Quality, Completeness, and Timeliness of Supply and Withdrawal Data and Regulation of Data Exchange between Market Participants’, which will contain the results of Task 4. The Report will be produced in the English and Ukrainian languages.

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| **Deliverable Number** | **Deliverable Name** | **Due Date** |
| 1 | Report ‘Employment of Regulatory Acts on Physical Balancing and Commercial Balancing Introduced throughout Martial Law’ | 1 months upon signing the contract |
| 2 | Report ‘GTSOU Internal Policies and Procedures Associated with Physical Balancing and Commercial Balancing of GTS’ | 2 months upon signing the contract |
| 3 | Report ‘Quality, Completeness, and Timeliness of Supply and Withdrawal Data and Regulation of Data Exchange between Market Participants’ | 3 months upon signing the contract |

*“The Subcontractor, performing to achieve the USAID Energy Security Project goals and objectives, is obliged to mark the activity-related deliverables (reports, presentations, briefs, articles, videos, analytics, newsletters, etc.) with USAID logo and text disclaimer (videos – additionally with video bumper) and optionally – with the visual identity of the Energy Security Project.*

*For detailed USAID Branding Guidelines please visit*

[*https://www.usaid.gov/branding*](https://www.usaid.gov/branding)

[*https://www.usaid.gov/branding/gsm*](https://www.usaid.gov/branding/gsm)

[*https://www.usaid.gov/work-usaid/style-guide*](https://www.usaid.gov/work-usaid/style-guide)

*By signing this Agreement, the Subcontractor takes the obligation not to promote its brand during public live and online events. All public presentations and mentions of deliverables should contain USAID branding and, where applicable – mentions and tags.*

*The USAID Energy Security Project Communication Team is the contact point for all branding and public communication-related clarifications*

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| **ATTACHMENT B – DETAILED BUDGET** |
| **PROPOSED DETAILED BUDGET** |
| **TABLE 1 − Overall Subcontract Detailed Budget** |



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| Prices quoted must be valid for **60** days, and account for ALL remuneration, per diem, travel, communications, report reproduction and other out-of-pocket expenses, taxes and other costs, but excluding the VAT tax that may be originated in **Ukraine**. On this basis Tetra Tech will issue a **Fixed Price Subcontract**, and payment shall be based upon acceptance of services and deliverables described in the Table 2. |

**TABLE 2 – Payment schedule**

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| **Offeror Deliverable** | **Expected Due Date** | **Fixed Price Payment Amount** |
| 1. Report ‘Employment of Regulatory Acts on Physical Balancing and Commercial Balancing Introduced throughout Martial Law’ |  | 33% |
| 1. Report ‘GTSOU Internal Policies and Procedures Associated with Physical Balancing and Commercial Balancing of GTS’ | … | 33% |
| 1. Report ‘Quality, Completeness, and Timeliness of Supply and Withdrawal Data and Regulation of Data Exchange between Market Participants’ |  | 34% |

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| **ATTACHMENT C − REPRESENTATIONS AND CERTIFICATIONS** |

**Offeror Representations and Certifications**

1. **Organizational Conflict of Interest Representation**

The offeror represents, to the best of its knowledge and belief, that this award:

does [ ] or does not [ ] involve an organizational conflict of interest.

*Please see FAR 52.209-8 for further explanation.*

1. **Unique Entity Identifier (UEI) Number** *(required if cost proposal is more than USD $30,000)*

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1. **Source and Nationality of Goods and Commodities**
2. This is to certify that the Offeror is:
   1. an individual who is a citizen or legal resident of .
   2. a corporation of partnership organized under the laws of .
   3. a controlled foreign corporation of which more than 50% of the total combined voting power of all classes of stock is owned by United States shareholders; or
   4. a joint venture or incorporated association consisting entirely of individuals, partnerships or corporations. If so, please describe separately the citizenship or legal status of the individuals, the legal status of the partnership or corporations, and the percentage (%) of voting power of the corporations.
3. This is to certify that the **Source** (the country from which a commodity is to be shipped from) of the Equipment to be supplied under this Order is:

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*name of country or countries*

1. **52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020).**

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 the provision at [52.204-26](https://www.acquisition.gov/far/52.204-26#FAR_52_204_26), Covered Telecommunications Equipment or Services—Representation, or in paragraph (v) of the provision at [52.212-3](https://www.acquisition.gov/far/52.212-3#FAR_52_212_3), Offeror Representations and Certifications-Commercial Items.

      (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](https://www.acquisition.gov/far/52.204-25#FAR_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](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.

By signing below, the Offeror certifies that the representations and certifications made, and information provided herein, are accurate, current and complete.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Signature: |  | | Date: |  |
| Name of and title of authorized signature: | |  | | |

|  |
| --- |
| **ATTACHMENT D − CERTIFICATE OF CURRENT COST OR PRICING DATA** |

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to Tetra Tech in support of [**Firm/Organization**] are accurate, complete, and current as of [**DATE**]. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_